



भारत का राजपत्र The Gazette of India

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No. 50]

NEW DELHI, SATURDAY, DECEMBER 12, 1992/AGRAHAYANA 21, 1914

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में
रखा जा सके

Separate Paging is given to this Part in order that it may be filed as
a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii) PART II—Section 3—Sub-Section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गये तारिखिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications issued by the Ministries of the Government of India (other than
the Ministry of Defence)

कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय

(कार्मिक और प्रशिक्षण विभाग)

नई दिल्ली, 23 नवम्बर, 1992

अधिवक्ताओं को विशेष लोक अभियोजक के रूप में
नियुक्त करती है।

[संख्या 225/5/92-ए.पी.डी.-II]

सी.पी. सिंह, उप सचिव

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES
AND PENSIONS

(Department of Personnel and Training)

New Delhi, the 23rd November, 1992

का.आ. 3027—केन्द्रीय सरकार, दंड प्रक्रिया संहिता
1973 (1974 का 2) की धारा 24 की उपधारा (8)
द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए और कार्मिक
और प्रशिक्षण विभाग के पत्र संख्या 225/5/92-ए.पी.
डी. II तारीख 19-6-92 के क्रम में जिला और सेशन
न्यायाधीश, पुर्नाकुलम, केरल के न्यायालय में विचाराधीन
श्री ए.पी. अब्दुर्रहमान उर्फ पाकिस्तान अब्दुर्रहमान
उर्फ कम्प्यूटर और अन्य के विरुद्ध दिल्ली विशेष पुनिम
स्थापना मामला संख्या 21(एम)/90-के.ई.आर.
(हमला हत्या कांड) के विचारण के संचालन के प्रयोजन
के लिये सर्वश्री के. कुन्हीरमा मेवन और के.जे. एन्टोनी

S.O. 3027.—In exercise of the powers conferred by Sub-
Section (8) of Section 24 of the code of Criminal Proce-
dure, 1973 (2 of 1974), the Central Government in contin-
uation of DP&T letter No. 225/5/92-AVD.II dated 19-6-92,
hereby appoint S/Sh. K. Kunhirama Menon and K. J. An-
tony, Advocates, as Special Public Prosecutors for the pur-
poses of conducting trial of the Delhi Special Police Estab-
lishment case No. 21/5/90-KER (Hansa Murder Case)
against Sh. A. P. Abdurahiman @ Pakistan Abdurahiman

(4541)

@ Computer and others pending trial in the court of District & Sessions Judge, Ernakulam, Kerala.

[No. 225/5/92-AVD-II]
C. P. SINGH, Dy. Secy.

वित्त मंत्रालय
(राजस्व विभाग)

आदेश

नई दिल्ली, 18 नवम्बर, 1992

स्टाम्प

का.आ. 3028—भारतीय स्टाम्प अधिनियम, 1899 (1899 का 2) की धारा 9 की उपधारा (1) के खण्ड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा उस शुल्क को माफ करती है जो भारतीय रेलवे वित्त निगम लि. द्वारा जारी किये जाने वाले मात्र एक सौ ग्यारह करोड़ और चौसठ लाख रुपये मूल्य के ऋणपत्रों के स्वरूप में वर्णित बंधपत्रों "9% कर मुक्त बंधपत्रों" पर उक्त अधिनियम के अन्तर्गत प्रभावी हैं।

[सं. 29/92-स्टाम्प-फा.सं. 33/6/92-वि.क.]

आत्मा राम, अवर सचिव

MINISTRY OF FINANCE

(Department of Revenue)

ORDER

New Delhi, the 18th November, 1992

STAMPS

S.O. 3028.—In exercise of the powers conferred by clause (a) of sub-section (1) of section 9 of the Indian Stamp Act, 1899 (2 of 1899), the Central Government hereby remits the duty with which the bonds in the nature of debentures—described as "9% tax-free bonds" of the sixth series of the value of rupees one hundred eleven crores and sixty four lakhs only to be issued by the Indian Railway Finance Corporation Limited are chargeable under the said Act.

[No. 29/92-Stamp—F. No. 33/6/92-ST]

ATMA RAM, Under Secy.

(आर्थिक कार्य विभाग)

(वैकिंग प्रभाग)

नई दिल्ली, 20 नवम्बर, 1992

का.आ. 3029—राष्ट्रीयकृत बैंक (प्रबंध एवं प्रकीर्ण उपबंध) स्कीम, 1980 के खण्ड 9 के साथ पठित खण्ड 3 के उपखण्ड (ग) के अनुसरण में केन्द्रीय सरकार, भारतीय रिजर्व बैंक के साथ परामर्श करने के पश्चात्, एतद्वारा इस समय आन्ध्रा बैंक, केन्द्रीय कार्यालय, प्रतिभूति विभाग, हैदराबाद में तैनात श्री वी. कोटेश्वर राव, मिडिल मैनेजमेंट ग्रेड (स्केल-II) के अधिकारी को आन्ध्रा बैंक के बोर्ड में निदेशक के रूप में नियुक्त करती है। श्री वी. कोटेश्वर राव केन्द्रीय सरकार के प्रसाद पर्यन्त और उसके अधीन

20 नवम्बर, 1992 से तीन वर्ष की अवधि तक था जब तक के आन्ध्रा बैंक के अधिकारी का पद नहीं छोड़ देते, इनमें से जो भी पहले हो, निदेशक के पद पर रहेंगे। यह नियुक्ति 1991 की रिट याचिका सं. 2615 में 1991 की रिट अपील सं. 809 में आन्ध्रा प्रदेश उच्च न्यायालय द्वारा दिये गये निर्देशों के अध्वक्षान होगी।

[सं. 9/25/91-बी.ओ.-I]

एम.एस. सीतारामन, अवर सचिव

(Department of Economic Affairs)

(Banking Division)

New Delhi, the 20th November, 1992

S.O. 3029.—In pursuance of sub-clause (c) of clause 3 read with clause 9 of the Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1980, the Central Government, after consultation with the Reserve Bank of India, hereby appoints Shri V. Koteswara Rao, an officer in the Middle Management Grade (Scale-II), presently posted in the Security Deptt. Andhra Bank, Central Office, Hyderabad, as a Director on the Board of Andhra Bank. Shri V. Koteswara Rao shall hold the office of director during the pleasure of the Central Government and, subject to the same, for a period of three years with effect from the 20th November, 1992 or until he ceases to be an officer of Andhra Bank whichever is earlier. The appointment shall also be subject to the directions given by the High Court of Judicature of Andhra Pradesh in Writ Appeal No. 809 of 1991 in Writ Petition No. 2615 of 1991.

[No. 9/25/91-B.O.I.]

M. S. SEETHARAMAN, Under Secy.

वस्त्र मंत्रालय

नई दिल्ली, 25 नवम्बर, 1992

का.आ. 3030—केन्द्रीय रेशम बोर्ड अधिनियम, 1948 (1948 का 61) की धारा 4 की उपधारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार, वस्त्र मंत्रालय, भारत सरकार की अधिसूचना संख्या का.आ. संख्या 680(अ), दिनांक 11-10-91 में एतद्वारा निम्न-लिखित संशोधन करती है:—

उक्त अधिसूचना में क्रम सं. 1 और उससे संबंधित प्रविष्टि के स्थान पर निम्नोक्त को रखा जायेगा:—

श्री अजय प्रसाद, अधिनियम की धारा 4(3)(ख) संयुक्त सचिव (रेशम), के अन्तर्गत केन्द्र सरकार द्वारा वस्त्र मंत्रालय, नामांकित।
भारत सरकार

श्री अजय प्रसाद, संयुक्त सचिव को श्री एस. नारायणन के स्थान पर केन्द्रीय रेशम बोर्ड के उपाध्यक्ष के रूप में भी नियुक्त किया जाता है।

[फा.सं. 25012/4/91-रेशम]

जयन्त दाश गुप्ता, उप सचिव

MINISTRY OF TEXTILES

New Delhi, the 25th November, 1992

S.O. 3030—In exercise of the powers conferred by Sub-Section (3) of Section 4 of the Central Silk Board Act, 1948 (61 of 1948), the Central Government hereby makes the following amendment in the notification of the Government of India in the Ministry of Textiles S.O. No. 680(L) dated 10th October, 1991 :—

In the said notification against Sl. No. 1 and the entry relating thereto, the following shall be inserted namely :—

Shri Ajay Prasad,
Joint Secretary (Silk),
Ministry of Textiles,
Government of India.

Nominated by the Central
Government under Section
4(3)(b) of the Act.

Shri Ajay Prasad, Joint Secretary is also appointed as Vice-Chairman of the Central Silk Board vice Shri S Narayanan.

[F. No. 25012/4/91-Silk]

JAYANT DASGUPTA, Dy Secy.

नागरिक पूर्ति, उपभोक्ता मामले और सार्वजनिक
वितरण मंत्रालय

नई दिल्ली, 26 नवम्बर, 1992

का आ. 3031—केन्द्रीय सरकार का, विहित प्राधिकारी (अर्थात् निदेशक) द्वारा उसको प्रस्तुत की गई रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित प्रतिमान बाट और माप मानक अधिनियम 1976 (1976 का 60) और बाट और माप मानक (प्रतिमान का अनुमोदन) नियम, 1987 के उपबन्धों के अनुरूप है और यह सम्भावना है कि उक्त मानक अविरत उपयोग की लम्बी कालावधि में ठीक बना रहेगा और विभिन्न दशाओं में सही सेवा देगा।

अतः, अब, केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए टाइप सं. एपी-101 के इलेक्ट्रॉनिक अकीय टैक्मीमीटर के प्रतिमान (जिसे इसमें इसके पश्चात् प्रतिमान कहा गया है), जो मैसर्स एडवंस पुल्सर डिजिटल सिस्टम्स प्राइवेट लिमिटेड, बी-619, बसत विहार, नई दिल्ली-110057 द्वारा विनिर्मित है और जिसे अनुमोदन चिन्ह आई एन डी/10/92-01 समनुदेशित किया गया है, का अनुमोदन प्रकाशित करती है।

टैक्मी मीटर 176 मिलीमीटर × 109 मिलीमीटर × 47 मिलीमीटर आकार के धात्विक बाक्स में (प्रातिनिधित्व) रखा जाता है। 15 मिलीमीटर गमनीय यांत्रिक का एक सात राष्ट्रीय निर्वात प्रनिदीपिणील (फ्लारेगेंट) प्रदर्शन किया उपदर्शित करता है। यह यंत्र 6 वोल्ट से 15 वोल्ट तक की रेंज में दिष्ट धारा विद्युत् प्रदाय पर कार्य करता है। इस प्रतिमान में 999

रूपों और 99 पैसे का अधिकतम किराया उपदर्शित होता है और अधिकतम प्रतीक्षा काल परिसीमा 25000 सेकण्ड है। इसके अतिरिक्त इसमें फेरा (ट्रिप) काउन्टर, यूनिट काउन्टर, किलोमीटर काउन्टर की व्यवस्था की जाने की अनुज्ञा दी जा सकती है।



(आकृति—1)

इस प्रतिमान का सहन परीक्षण, शुष्क ऊष्मा परीक्षण, आर्द्र ऊष्मा परीक्षण, कम्पन परीक्षण और प्रचालन वांछित रेंज परीक्षण किया गया था और उसका निष्पादन समाधानप्रद पाया गया था। इस प्रतिमान का ग्रावासी बाक्स (बैक्स) के पश्च भाग में बद किया जायेगा। मुख्य गियर बाक्स से जुड़े हुए, ट्रांसम्यूटर समुच्चय को भी बद किया जायेगा।

प्रतिमान के अनुमोदन का यह प्रमाण पत्र बाट और माप मानक (प्रतिमान अनुमोदन) नियम 1987 के नियम 14 और नियम 15 में अधिकृत शर्तों के अधीन रहते हुए है। आगे यह प्रमाण पत्र माप की संबंधी लक्षणों की बाबत किसी सव्यवहार में उपयोग के लिये उपस्कर की उपयुक्तता से संबंधित है। यह किसी सव्यवहार में उपयोग के लिये या अन्यथा उपस्कर की सुरक्षा के प्रति किसी गारंटी को प्रमाणित नहीं करता है या वह इसमें विवक्षित नहीं होती है।

[फा.स. 101-21(9)/91]

सती नायर, संयुक्त सचिव

MINISTRY OF CIVIL SUPPLIES, CONSUMER AFFAIRS
AND PUBLIC DISTRIBUTION

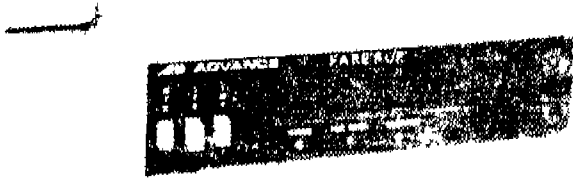
New Delhi, the 26th November, 1992

S.O. 3031—Whereas the Central Government after considering the report submitted to it by the prescribed authority (i.e. the Director) is satisfied that the Model described in the said report is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Model) Rules, 1987 and the said Model is likely to maintain accuracy over periods or sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-section (7) of section 36 of the said act, the Central Government hereby publish the approval of the Model of the Electronic Digital Taximeter of type No. AP-101 (hereinafter referred to as the model) manufactured by M/s. Advance Pulsar Digital Systems Pvt. Ltd., B-6/9, Vasant Vihar,

New Delhi-110057 and assigned the approval mark-IND/10/92/01.

The taximeter is housed in a metallic box of size 176 mm x 109 mm x 47 mm (see Figure 1). A seven segment vacuum fluorescent display of character size 15 mm indicates the fare. The instrument work on direct current power supply in the range of 6 volt to 15 volt. The model has a maximum fare indication of Rs. 999.99 and the maximum waiting time is limited to 25000 seconds. In addition to it Trips counter, Units counter, Kilometer counter and Paid Kilometer counter may be allowed to be provided.



(Fig. 1)

The model was put to Endurance test, Dry heat test, Damp heat test, Vibration test and Operating Voltage range test and its performance was found to be satisfactory. The model shall be sealed at the rear side of the housing case. The transducer assembly fitted to the main gear box shall also be sealed.

This certificate of approval of model is subject to the conditions laid down in rule 14 and 15 of the Standards of Weights and Measures (Approval of Models) Rules, 1987. Further this certificate relates to the suitability of the equipment for use in any transaction in respect of the metrological characteristics. It does not certify or imply any guarantee as to the safety of the equipment for use in any transaction or otherwise.

[F. No. WM-21(9)/91]
SATHI NAIR, Jr. Secy

कायला मंत्रालय

आदेश

नई दिल्ली, 16 नवम्बर, 1992

का. आ. 3032,—कायला धारक क्षेत्र (अर्जन और विकास कार्य) अधिनियम, 1957 (1957 का 20) की (जिसे इससे इसके पश्चात् उक्त अधिनियम कहा गया है) धारा 9 की उपधारा (1) के अधीन तत्कालीन गृह भारत सरकार के तत्कालीन ऊर्जा मंत्रालय (कायला विभाग) की अधिसूचना गख्या का. आ. 660, तारीख 15 फरवरी, 1990 के, भारत के राजपत्र, भाग 2, खंड 3, उपखंड (ii) तारीख 17 मार्च, 1990 में प्रकाशित होने पर, उक्त अधिसूचना में संलग्न अनुसूची में वर्णित भूमि और भूमि में या उस पर के अधिकार (जिसे इससे इसके पश्चात् उक्त भूमि कहा गया है) उक्त अधिनियम की धारा 10 की उपधारा (1) के अधीन, सभी विल्लगमों से मुक्त होकर, आत्विक रूप से केन्द्रीय सरकार से निहित हो गए थे,

और, केन्द्रीय सरकार का यह समाधान हो गया है कि बंस्टन कोलकोल्डस् लिमिटेड, नागपुर (जिसे इससे इसके पश्चात् सरकारी कंपनी कहा गया है), ऐसे निबंधनों और शर्तों का, जो केन्द्रीय सरकार इस निमित्त अधिरोपित करना उचित समझे, अनुपालन करने के लिए राजामद है,

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 11 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निर्देश देती है कि इस प्रकार निहित उक्त भूमि या ऐसी भूमि में या उस पर के अधिकार, तारीख 17 मार्च, 1990 में केन्द्रीय सरकार में इस प्रकार निहित बने रहने की बजाय, निम्नलिखित निबंधनों और शर्तों के अधीन रहने हुए, सरकारी कंपनी में निहित हो जाएंगे, अर्थात् :—

- (1) सरकारी कंपनी, उक्त अधिनियम के उपबंधों के अधीन अवधारित प्रतिकर, ब्याज, नुकसानी और वैसी ही मदों की बाबत किए गए सभी सदायों को केन्द्रीय सरकार को प्रतिपूर्ति करेगी;
- (2) सरकारी कंपनी, द्वारा शर्त (1) के अधीन, केन्द्रीय सरकार को गदेय रकमों का अवधारण करने के प्रयोजन के लिए एक अधिकरण का गठन किया जाएगा तथा ऐसे किसी अधिकरण और ऐसे अधिकरण की सहायता के लिए नियुक्त व्यक्तियों के संबंध में उपगत सभी व्यय, सरकारी कंपनी वहन करेगी और इसी प्रकार, इस प्रकार निहित उक्त भूमि में या उस पर के अधिकारों के लिए या उनके संबंध में सभी विधिक कार्यवाहियों, जैसे अधील, आदि की बाबत उपगत सभी व्यय भी, सरकारी कंपनी वहन करेगी;
- (3) सरकारी कंपनी, केन्द्रीय सरकार या उसका पदाधिकारियों को, ऐसे किसी अन्य व्यय के संबंध में, जो इस प्रकार निहित उक्त भूमि में या उस पर के अधिकारों के बारे में, केन्द्रीय सरकार या उसके पदाधिकारियों द्वारा या उनके विरुद्ध किन्हीं कार्यवाहियों के संबंध में आवश्यक हों, क्षतिपूर्ति करेगी;
- (4) सरकारी कंपनी को, केन्द्रीय सरकार के पूर्व अनुमोदन के बिना, उक्त भूमि किसी अन्य व्यक्ति को अंतरित करने की शक्ति नहीं होगी, और
- (5) सरकारी कंपनी, ऐंग निदशा और ऐसी शर्तों का, जो केन्द्रीय सरकार द्वारा, अब कभी आवश्यक हों, उक्त भूमि के विशिष्ट क्षेत्रों के लिए दिए जाएं या अधिरोपित की जाए, पालन करेगी।

[म 43015/1/87—सा.ए./एल. एस. डब्ल्यू.]

वी. बी. राव, अव्वर सचिव

MINISTRY OF COAL

ORDER

New Delhi, the 16th November, 1992

S.O. 3032.—Whereas on the publication of the notification of the Government of India in the then Ministry of Energy (Department of Coal) number S. O. 660 dated the 15th February, 1990 in the Gazette of India, Part-II, Section 3, Sub-section (ii) dated the 17th March, 1990 issued under sub-section (1) of section 9 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957) (hereinafter referred to as the said Act), the lands and rights in or over lands as described in the Schedule appended to the said notification (hereinafter referred to as the said lands vested absolutely in the Central Government free from all encumbrances under sub-section (1) of section 10 of the said Act;

And whereas the Central Government is satisfied that the Western Coalfields Limited, Nagpur (hereinafter referred to as the Government Company) is willing to comply with such terms and conditions as the Central Government thinks fit to impose in this behalf;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 11 of the said Act, the Central Government hereby directs that the said lands and rights in or so vested shall with effect from the 17th March, 1990, instead of continuing to so vest in the Central Government vest in the Government company, subject to the following terms and conditions, namely:—

- (1) the Government company shall reimburse the Central Government all payments made in respect of compensation, interest, damages and the like, as determined under the provisions of the said Act;
- (2) a tribunal shall be constituted for the purpose of determining the amounts payable to the Central Government by the Government Company under condition (1) and all expenditure incurred in connection with any such tribunal and persons appointed to assist the tribunal shall be borne by the Government company and, similarly, all expenditure incurred in respect of all legal proceedings like appeals, etc. for or in connection with the rights, in or over the said lands so vesting shall also be borne by the Government company;
- (3) the Government company shall indemnify the Central Government or its officials against any other expenditure that may be necessary in connection with any proceedings by or against the Central Government or its officials regarding the rights in or over the said lands so vesting;
- (4) the Government company shall have no power to transfer the said lands to any other person without the previous approval of the Central Government; and
- (5) the Government company shall abide by such directions and conditions as may be given or imposed by the Central Government for particular areas of the said lands as and when necessary.

[No. 43015/1/87-CA/1.SW]

B. B. RAO, Under Secy.

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 9 नवम्बर, 1992

का. आ. 3033.—केन्द्रीय सरकार ने, पेट्रोलियम और खनिज पाईपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के

पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना सं. का. आ. 33 तारीख 12 दिसम्बर, 1991 द्वारा पेट्रोलियम के परिवहन के लिए पाईपलाइन बिछाने के प्रयोजनार्थ उक्त अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार का अर्जन करने के अपने आग्रह की घोषणा की थी।

और राजस्वित अधिसूचना की प्रतियां जनता को तारीख 29 जनवरी, 1992 को उपलब्ध करा दी गई थी;

और उक्त अधिनियम की धारा 6 की उपधारा (1) के अनुसरण में सक्षम प्राधिकारी ने केन्द्रीय सरकार को रिपोर्ट दे दी है;

और केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करते के पश्चात् इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार अर्जित किए जाते हैं;

यह और कि केन्द्रीय सरकार धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि उक्त भूमि में उपयोग का अधिकार केन्द्रीय सरकार में निहित होने की बजाए सभी बिलगमों से मुक्त इंडियन आयल कॉर्पोरेशन लिमिटेड में निहित होगा।

तहसील : भचाउ		जिला : कच्छ		राज्य : गुजरात	
ग्राम का नाम	सर्वेक्षण संख्या	क्षेत्रफल			
		हे.	आरे	बर्ग-मीटर	
1	2	3	4	5	
भचाउ	1248	00	05	40	
	1257	00	23	04	
	1256	00	34	38	
	1262	00	21	60	
	1253	00	15	12	
	1265	00	57	60	
	1268	00	16	56	
	1267	00	13	50	
	1364	00	43	20	
	1374	00	31	32	

1	2	3	4	5
	1372	00	30	96
	1371	00	27	36
	1483/2	00	06	48
	1483/1	00	26	64
	1482	00	45	72
	1480	00	32	40
	1481	00	00	12
	1607/2	00	18	00
	1649	00	25	92
	1648	00	33	12
	1647	00	20	16
	1646	00	41	04
भचाउ	1652	00	10	80
	1799/1	00	14	40
	1796	00	00	10
	1799/2	00	02	16
	1798/1	00	01	44
	1798/2	00	14	76
	1795	00	28	80
	1789/1	00	00	16
	1790	00	39	96
	1798/2	00	00	72
	1791	00	00	72
	1866/1	00	20	16
	1866/2	00	14	40
	1864	00	02	16
	1831	00	37	44
	1832/1	00	08	64
	1833	00	24	48
	1835/1	00	15	48
	1835/2	00	21	60
	1836/2	00	07	92
बोध	860	00	11	52
	805	00	27	90
	810	00	24	48
	815/2	00	07	20
	816/2	00	01	44
	816/3	00	14	40
	816/5	00	09	36
	817	00	01	44
	818/1	00	03	24
	819	00	50	40
	1416	00	11	52
	1415	00	17	28
	1402	00	18	72
	1403/1	00	43	20

1	2	3	4	5
	1403/2	00	05	76
	1382/2	00	32	76
	1393	00	28	44
	1395	00	05	04
	1404	00	17	28

[फाईल नं. आर. 31015/11/92-ओ आर-1]

कुलदीप सिंह, अव्वर सचिव

MINISTRY OF PETROLEUM & NATURAL GAS

New Delhi, the 9th November, 1992

S.O. 3033. -Whereas by the notification of the Government of India in the Ministry of Petroleum and Natural Gas No. S.O. 33, dated the 12th December, 1991 issued under sub-section(1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962) (hereinafter referred to as the said Act), the Central Government declared its intention to acquire the right of user in the lands specified in the Schedule appended to that notification for the purpose of laying pipeline for the transport of petroleum;

And whereas the copies of the said Gazette notification were made available to the public on the 29th January, 1992.

And whereas the Competent Authority in pursuance of sub-section (1) of section 6 of the said Act has made his report to the Central Government;

And whereas the Central Government has, after considering the said report, decided to acquire the right of user in the lands specified in the Schedule appended to this notification;

Now, therefore, in exercise of the power conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the lands specified in the Schedule appended to this notification are hereby acquired;

And further in exercise of the powers conferred by sub-section (4) of section 6, the Central Government hereby direct that the right of user in the lands shall instead of vesting in the Central Government, vest in the Indian Oil Corporation Limited, free from all encumbrances.

SCHEDULE

Tehsil—Bhachau	District—Kachchh	State—Gujarat
Name of Village	Survey no.	Area
		Hect. Arc Sq. Mtrs.
1	2	3 4 5
Bhachau	1248	00 05 40
	1257	00 23 04
	1256	00 34 38
	1262	00 21 60
	1253	00 15 12

1	2	3	4	5
	1265	00	57	60
	1268	00	16	56
	1267	00	13	50
	1364	00	43	20
	1374	00	31	32
	1372	00	30	96
	1371	00	27	36
	1483/1	00	26	64
	1483/2	00	06	48
	1482	00	45	72
	1480	00	32	40
	1481	00	00	12
	1607/2	00	18	00
	1649	00	25	92
	1648	00	33	12
	1647	00	20	16
	1646	00	41	04
	1652	00	10	80
	1799/1	00	14	40
	1796	00	00	10
	1799/2	00	02	16
	1798/1	00	01	44
	1798/2	00	14	76
	1795	00	28	80
	1789/1	00	00	16
	1790	00	39	96
	1789/2	00	00	72
	1791	00	00	72
	1866/1	00	20	16
	1866/2	00	14	40
	1864	00	02	16
	1831	20	37	44
	1832/1	00	08	64
	1833	00	24	48
	1835/1	00	15	48
	1835/2	00	21	60
	1836/2	00	07	92
	860	00	11	52
	805	00	27	90
	810	00	24	48
	815/2	00	07	20
	816/2	00	01	44
	816/3	00	14	40
	816/5	00	09	36
	817	00	01	44
	818/1	00	03	24
	819	00	50	40
	1416	00	11	52
	1415	00	17	28
	1402	00	18	72
	1403/1	00	43	20
	1403/2	00	05	76
	1382/2	00	32	76
	1393	00	28	44
	1395	00	05	04
	1404	00	17	28

[File. No. R-31015/11/92-OR-I]

KULDIP SINGH, Under Secy.

नई दिल्ली, 19 नवम्बर, 1992

का. आ. 3034.—केन्द्रीय सरकार ने, पेट्रोलियम और खनिज पार्श्वलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50), जिसे इसमें इसके पश्चात्

उक्त अधिनियम कहा गया है) का धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना सं० का० आ० 135 तारीख 20 दिसम्बर, 1991 द्वारा पेट्रोलियम के परिवहन के लिए पार्श्वलाइन बिछाने के प्रयोजनार्थ उक्त अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा की थी;

और राजपत्रित अधिसूचना की प्रतियां जनता को तारीख 6 फरवरी, 1992 को उपलब्ध करा दी गई थी।

और उक्त अधिनियम की धारा 6 की उपधारा (1) के अनुसरण में सक्षम प्राधिकारी ने केन्द्रीय सरकार को रिपोर्ट दे दी है;

और केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार अर्जित किए जाते हैं;

यह और कि केन्द्रीय सरकार धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि उक्त भूमि में उपयोग का अधिकार केन्द्रीय सरकार में निहित होने की बजाए सभी विजंगमों से मुक्त इंडियन आयल कारपोरेशन लिमिटेड में निहित होगा।

अनुसूची

तहसील : पालनपुर जिला : बनासकांठा राज्य : गुजरात

ग्राम का नाम	सर्वे संख्या	क्षेत्रफल		
		हे.	आरे वर्ग मी.	
1	2	3	4	5
कानोदर	95	00	23	57
	97	00	25	71
	96	00	02	14
	112	00	11	43
	60	00	12	57
	61	00	16	43

[संख्या आर 31015/13/92ओ- आर-I]

कुलदीप सिंह, अवसर सचिव

New Delhi, the 19th November, 1992

S.O. 3031.—Whereas by the notification of the Government of India in the Ministry of Petroleum and Natural Gas, No.S.O. 135, dated the 20th December, 1991 issued under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (40 of 1962) (hereinafter referred to as the said Act.), the Central Government declared its intention to acquire the right of user in the lands specified in the Schedule appended to that notification for the purpose of laying pipeline for the transport of petroleum;

And whereas the copies of the said Gazette notification were made available to the public on 6th February, 1992:

And whereas the Competent Authority in pursuance of sub-section (1) of section 6 of the said Act has made his report to the Central Government;

And whereas the Central Government has, after considering the said report, decided to acquire the right of user in the lands specified in the Schedule appended to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the lands specified in the Schedule appended to this notification are hereby acquired; And further in exercise of the powers conferred by sub-section (4) of section 6 the Central Government hereby directs that the right of user in the said lands shall instead of vesting in the Central Government, vest in the Indian Oil Corporation Limited free from all encumbrances.

SCHEDULE

Tehsil : Palanpur District : Banaskantha State: Gujarat

Name of village	Area			
	Survey No.	Hect.	Acre	Sq.M
1	2	3	4	5
Kanodar	95	00	23	57
	97	00	25	71
	96	00	02	14
	112	00	11	43
	60	00	12	57
	61	08	16	43

[No. R-31015/13/92-OR-I]
KULDIP SINGH, Under Secy.

नई दिल्ली, 19 नवम्बर, 1992

का. आ. 3035 —केन्द्रीय सरकार ने, पेट्रोलियम और खनिज पाइपलाईन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे हमने इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना स. का. आ. 136 तारीख 20 दिसम्बर 1991 द्वारा पेट्रोलियम के परिवहन लिए पाइपलाईन बिछाने के प्रयोजनार्थ उक्त अधिसूचना से सलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा की थी

और राजपत्रित अधिसूचना की प्रतियाँ जनता को तारीख 6 फरवरी, 1992 को उपलब्ध करा दी गई थी;

और उक्त अधिनियम की धारा 6 की उपधारा (1) के अनुसरण में मक्षम प्राधिकारी ने केन्द्रीय सरकार को रिपोर्ट दे दी है ;

और केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात इस अधिसूचना से सलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि इस अधिसूचना से सलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार अर्जित किए जाते हैं;

यह और कि केन्द्रीय सरकार धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि उक्त भूमि में उपयोग का अधिकार केन्द्रीय सरकार में निहित होने की बजाए सभी विल्लंगमों से मुक्त इंडियन आयल कारपोरेशन लिमिटेड में निहित होगा।

अनुसूची

तहसील	भण्डा	जिला: कच्छ राज्य: गुजरात			
ग्राम का नाम	सर्वे संख्या	क्षेत्रफल			
		हे.	आर.	वर्गमी.	
1	2	3	4	5	
मोटी चिराई	548	0	07	20	
	547	0	14	40	
	550	0	10	80	
	449	0	16	20	
	447	0	20	70	
	452	0	07	20	
	453	0	23	40	
	454	0	36	00	
	464 /1	0	09	00	
	418	0	34	20	
	413	0	04	50	
	414 /1	0	43	20	
	359	0	04	50	
	360	0	21	60	
	661	0	26	10	
	365 /1	0	23	40	

1	2	3	4	5
	373	0	07	20
	372	0	00	45
	370	0	12	15
	371	0	22	14
	378	0	26	10
	379	0	25	20
	380/1	0	22	05
	380/2	0	00	45
	317	0	22	05
	318/1	0	00	45
	316/3	0	06	30
	316/2	0	01	98
	316/1	0	10	35
	314/1	0	00	45
	315	0	21	60
	238/2	0	26	10
	240	0	13	50
	219	0	31	50
	218	0	00	90
	213/1	0	02	70

[सं. अर. 31015/14/92 ओ. अर.]

कुलदीप सिंह, अवर सचिव

New Delhi, the 19th November, 1992

S.O. 3035.-Whereas by the notification of the Government of India in the Ministry of Petroleum and Natural Gas, No. S.O. 136, dated the 20th December, 1991 issued under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of user in land) Act, 1962 (50 of 1962) (hereinafter referred to as the said Act.), the Central Government declared its intention to acquire the right of user in the lands specified in the Schedule appended to that notification for the purpose of laying pipeline of the transport of petroleum;

And whereas the copies of the said Gazette notification were made available to the public on the 6th February, 1992;

And whereas the Competent Authority in pursuance of sub-section (1) of section 6 of the said Act has made his report to the Central Government;

And whereas the Central Government has, after considering the said report, decided to acquire the right of user in the lands specified in the Schedule appended to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the lands specified in the Schedule appended to his notification are hereby acquired;

And further in exercise of the power conferred by sub-section (4) of section 6, the Central Government hereby directs that the right of user in the said lands shall instead of vesting in the Central Government, vest in the Indian Oil Corporation Limited free from all encumbrances.

2905 GI 92-2.

SCHEDULE

Tehsil : Bhachau District: Kachchh State: Gujarat

Name of Village	Survey No.	Area		
		Hect.	Sq.	Mtrs
1	2	3	4	5
Motichrai	548	00	07	20
	547	00	14	40
	550	00	10	80
	449	00	16	20
	447	00	20	70
	452	00	07	20
	453	00	23	40
	454	00	36	00
	464/1	00	09	00
	418	00	34	20
	413	00	04	50
	414/1	00	43	20
	359	00	04	50
	360	00	21	60
	361	00	26	10
	365/1	00	23	40
	373	00	07	20
	372	00	00	45
	370	00	12	15
	371	00	22	14
	378	00	26	10
	379	00	25	20
	380/1	00	22	05
	380/2	00	00	45
	317	00	22	05
	318/1	00	00	45
	316/3	00	06	30
	316/2	00	01	98
	316/1	00	10	35
	314/1	00	00	45
	315	00	21	60
	238/2	00	26	10
	240	00	13	50
	219	00	31	50
	218	00	00	90
	213/1	00	02	70

[No. R-31015/14/92-OR-1]

KULDIP SINGH, Under Secy.

नई दिल्ली, 19 नवम्बर, 1992

का. अ. 3036 -केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 60) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना सं. का अ. 137 तारीख 20 दिसम्बर, 1991 द्वारा पेट्रोलियम के परिवहन के लिए पाइपलाइन बिछाने के प्रयोजनार्थ उक्त अधिसूचना से संलग्न भनूसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार का अर्जन करने के अपने आदेश की घोषणा की थी ;

और राजपत्रित अधिसूचना की प्रतियां जयता को तारीख 6 फरवरी, 1992 को उपलब्ध करा दी गई थी ;

और उक्त अधिनियम की धारा 6 की उपधारा (1) के अनुसरण में सक्षम प्राधिकारी ने केन्द्रीय सरकार को रिपोर्ट दे दी है ;

और केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है ;

अतः अब, केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार अर्जित किए जाते हैं ;

यह और कि केन्द्रीय सरकार धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि उक्त भूमि में उपयोग का अधिकार केन्द्रीय सरकार में निहित होने की बजाए सभी विलगमों से मुक्त इंडियन आयल कॉर्पोरेशन लिमिटेड में निहित होगा ।

अनुसूची

तहसील अंजार	जिला कच्छ	राज्य गुजरात			
ग्राम का नाम	सर्वे संख्या	क्षेत्रफल			
		हे. आर वर्गमी.			
1	2	3	4	5	
मीठीरोहर	162	0	24	30	
	163	0	24	30	
	168	0	00	45	
	128/1	0	08	64	
	128/2	0	17	10	
	131/1	0	14	22	
	90/2	0	10	89	
	72	0	31	32	
	84/4	0	00	45	
	73/1	0	16	65	
	167	0	30	78	
	170	0	00	45	
	172/2	0	15	66	
	117	0	07	20	
	130	0	07	20	
	91/1	0	00	46	
	21/2	0	14	40	

37/1	0	02	70
21/4	0	03	60
23	0	46	80
116/3	0	28	44
122	0	17	10
121	0	18	98
120	0	21	42
119/2	0	05	76
119/3	0	08	55
200/1	0	42	84
138	0	28	44
139/2	0	16	65
140	0	00	45
142	0	19	26

स. आर. 31015/14/92 ओ. आर.-I

[कुलदीप सिंह, अवर सचिव]

New Delhi, the 19th November, 1992

S.O. 3336—Whereas by the notification of the Government of India in the Ministry of Petroleum and Natural Gas, No. S.O. 137, dated the 20th December, 1991 issued under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of user in Land) Act, 1962 (50 of 1962) (hereinafter referred to as the said Act.), the Central Government declared its intention to acquire the right of user in the lands specified in the Schedule appended to that notification for the purpose of laying pipeline for the transport of petroleum;

And whereas the copies of the said Gazette notification were made available to the public on the 6th February, 1992;

And whereas the Competent Authority in pursuance of sub-section (1) of section 6 of the said Act has made his report to the Central Government.

And whereas the Central Government has, after considering the said report, decided to acquire the right of user in the lands specified in the Schedule appended to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the lands specified in the Schedule appended to this notification are hereby acquired;

And further in exercise of the powers conferred by sub-section (4) of section 6, the Central Government hereby directs that the right of user in the said lands shall instead of vesting in the Central Government, vest in the Indian oil Corporation Ltd. free from all encumbrances.

SCHEDULE

Tehsil : Anjar District : Kachchh State: Gujarat

Name of Village	Survey No.	Area			
		Hect. Are	Squ. Mtrs.		
1	2	3	4	5	
Mithirchar	162	00	24	30	
	163	00	24	30	

1	2	3	4	5
	168	00	00	45
	128/1	00	08	64
	128/2	00	17	10
	131/1	00	14	22
	90/2	00	10	89
	72	00	31	32
	84/4	00	00	45
	73/1	00	16	65
	167	00	30	78
	170	00	00	45
	172/2	00	15	66
	117	00	07	20
	130	00	07	20
	91/1	00	00	45
	21/2	00	14	40
	37/1	00	02	70
	21/4	00	03	60
	23	00	46	80
Padana	116/3	00	28	44
	122	00	17	10
	121	00	19	98
	120	00	21	42
	119/2	00	05	76
	119/3	00	08	55
	200/1	00	42	84
	138	00	28	44
	139/2	00	16	65
	140	00	00	45
	142	00	19	26

[No. R-31015/14/92-OR-I]
KULDIP SINGH, Under Secy.

नई दिल्ली, 19 नवम्बर, 1992

का. आ. 3037 :—पेट्रोलियम एवं खनिज पाइप-लाइन (भूमि के प्रयोगकर्ता के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) के खण्ड 2 की उपधारा (क) के अनुसरण में केन्द्रीय सरकार नीचे दी गई अनुसूची के कालम (1) में उल्लिखित प्राधिकारी को उक्त कालम (3) की तदनुसूची प्रविष्टि में उल्लिखित क्षेत्र की सीमाओं के भीतर उक्त अधिनियम के अन्तर्गत सक्षम प्राधिकारी के कार्य करने के लिए एतद्वारा प्राधिकृत करती है।

अनुसूची

व्यक्ति का नाम	पता	क्षेत्रीय सीमा
1	2	3
उप निदेशक (का एवं प्रा)	तेल एवं प्राकृतिक गैस आयोग निर्माण एवं अनुरक्षण विभाग मकरपुरा रोड वडोदरा (390 009)	गुजरात राज्य

[सं. O-12017/1/92-ओ. एन. जी/डी-IV]
एम. मार्टिन, डैस्क अधिकारी

New Delhi, the 19th November, 1992

S.O. 3037-In pursuance of clause (a) of Section 2 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962) the Central Government hereby authorises the authority mentioned in column 1 of the schedule below to perform the functions of the competent authority under the said Act within the areas mentioned in the corresponding entry in column 3 of the said schedule.

SCHEDULE

Authority	Address	Territorial Jurisdiction
1	2	3
Deputy Director (P&A)	Oil & Natural Gas Commission, Construction and Maintenance Division Makarpura Road, Vadodara (390009)	State of Gujarat

[No. O-12017/1/92-ONG/D-IV]

M. Martin, Desk Officer

नई दिल्ली, 19 नवम्बर, 1992

का. आ. 3038 :—पेट्रोलियम और खनिज पाइप-लाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) के खण्ड 2 की धारा (क) के अनुसार केन्द्रीय सरकार नीचे दी गई अनुसूची के कालम 1 में वर्णित प्राधिकारी को उपरोक्त नियम के अन्तर्गत उपरोक्त अनुसूची के कालम 3 में दर्ज की गई प्रविष्टि में वर्णित क्षेत्र के लिये सक्षम प्राधिकारी का कार्य करने के लिए प्राधिकृत करती है।

अनुसूची

प्राधिकारी	पता	क्षेत्र
(1)	(2)	(3)
उपायुक्त/अतिरिक्त उपायुक्त	तिनमुकिया (असम)	जिला तिनमुकिया (असम)

[संख्या O-12017/1/92-ओ. एन. जी/डी. IV]

एम. मार्टिन, डैस्क अधिकारी

New Delhi, the 19th November 1992

S.O.3038 :—In pursuance of clause (a) of section 2 of the Petroleum and Minerals Pipelines (Acquisition of Right of user in Land), Act, 1962 (50 of 1962) the Central Government hereby authorise the authority mentioned in column 1 of the Schedule below to perform the functions of the competent authority under the said Act within the areas mentioned in the corresponding entry in column 3 of the said Schedule.

SCHEDULE

New Delhi, the 16th November, 1992

Authority	Address	Area
1	2	3
Dy. Commissioner/ Tinsukia Assam Addl. Dy. Commi- sioner.		Distt. of Tinsukie Assam

[No. O-12017/1/92-ONG./D-IV]

M. MARTIN, Desk Officer

सूचना और प्रसारण मंत्रालय

नई दिल्ली, 5 नवम्बर, 1992

का. भा. 3039 :—चलचित्र (प्रमाणन) नियम, 1983 के नियम 7 और 8 के साथ पठित चलचित्र अधिनियम 1952 (1952 का 37) के खंड-5 के उप-खंड (1) के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार केन्द्रीय फिल्म प्रमाणन बोर्ड की तिरुवनन्तपुरम सलाहकार पैनल के सदस्य के रूप में कार्यरत श्रीमती नन्दिनी कृष्णन और श्री टी. ई. वासुदेवन के त्याग पत्रों को स्वीकार करती है और तबनुसार वे तत्काल प्रभाव से सदस्य नहीं रहेंगे।

[फा. संख्या 809/6/92—एफ (सी)]

एम. एस. सेठी, डैस्क अधिकारी

MINISTRY OF INFORMATION AND BROADCASTING

New Delhi, the 5th November, 1992

S.O. 3039.—In exercise of the powers conferred by sub-section (1) of section 5 of the Cinematograph Act 1952 (37 of 1952) read with rules 7 and 8 of the Cinematograph (Certification) Rules 1983, the Central Government is pleased to accept the resignations of Smt. Nandini Krishnan and Shri T. E. Vasudevan as members of the Thiruvananthapuram Advisory Panel of Central Board of Film Certification and they shall accordingly cease to be such members with immediate effect.

[File No. 809/6/92-F(C)]

M. S. SETHI, Desk Officer

नई दिल्ली, 16 नवम्बर, 1992

का. भा. 3040.—चलचित्र (प्रमाणीकरण) नियम, 1983 के नियमों 7 और 8 के साथ पठित चलचित्र अधिनियम, 1952 (1952 का 37) की धारा 5 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए तथा इस मंत्रालय की दिनांक 30-9-91 की अधिसूचना सं. 809/6/91 एफ (सी) और दिनांक 28-7-92 और 24-8-92 की अधिसूचना सं. 809/2/92 एफ (सी) के अनुक्रम में केन्द्रीय सरकार, बैंगलोर की श्रीमती बागरिया को तत्काल प्रभाव से और अगले आदेशों तक केन्द्रीय फिल्म प्रमाणीकरण बोर्ड के बैंगलोर सलाहकार पैनल का सदस्य नियुक्त करती है।

[फाईल सं. 809/2/92 एफ (सी)]

एस. लक्ष्मीनारायणन, संयुक्त सचिव

S.O. 3040.—In exercise of the powers conferred by sub-section (1) of section 5 of the Cinematograph Act, 1952 (37 of 1952) read with rules 7 and 8 of the Cinematograph (Certification) Rules, 1983 and in continuation of this Ministry's Notification No. 809/6/91-F(C) dated 30-9-91, and notifications No. 809/2/92-F(C) dated 28-7-92 and 24-8-92, the Central Government is pleased to appoint Smt. Bagaria of Bangalore as a member of the Bangalore advisory panel of the Central Board of Film Certification with immediate effect and until further orders.

[File No. 809/2/92-F(C)]

S. LAKSHMI NARAYANAN, Jt. Secy.

नई दिल्ली, 16 नवम्बर, 1992

का. भा. 3041.—चलचित्र (प्रमाणीकरण) नियम, 1983 के नियमों 7 और 8 के साथ पठित चलचित्र अधिनियम, 1952 (1952 का 37) की धारा 5 की उप धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए तथा इस मंत्रालय की दिनांक 30-9-91 की अधिसूचना सं. 814/4/90 एफ (सी) और दिनांक 28-2-92 और 18-5-92 की अधिसूचना संख्या 809/7/62-एफ (सी) के अनुक्रम में केन्द्रीय सरकार हैदराबाद की श्रीमती टी. एस. मोहना को तत्काल प्रभाव से और अगले आदेशों तक केन्द्रीय फिल्म प्रमाणीकरण बोर्ड के हैदराबाद सलाहकार पैनल का सदस्य नियुक्त करती है।

[फाईल सं. 809/7/92 एफ (सी)]

एस. लक्ष्मीनारायणन, संयुक्त सचिव

New Delhi, the 16th November, 1992

S.O. 3041.—In exercise of the powers conferred by sub-section (1) of section 5 of the Cinematograph Act, 1952 (37 of 1952) read with rules 7 and 8 of the Cinematograph (Certification) Rules, 1983 and in continuation of this Ministry's Notification No. 814/4/90-F(C) dated 30-9-91 and notifications No. 809/7/92-F(C) dated 28-2-92 and 18-5-92, the Central Government is pleased to appoint Smt. T. S. Mohana of Hyderabad advisory panel of the Central Board of Film Certification with immediate effect and until further orders.

[File No. 809/7/92-F(C)]

S. LAKSHMI NARAYANAN, Jt. Secy.

नई दिल्ली, 16 नवम्बर, 1992

का. भा. 3042.—चलचित्र (प्रमाणीकरण) नियम, 1983 के नियमों 7 और 8 के साथ पठित चलचित्र अधिनियम, 1952 (1952 का 37) की धारा 5 की उप-धारा (1) को और उनके द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए तथा दिनांक 30-9-91 24-1-92, 24-8-92 और 13-11-92 के मंत्रालय की अधिसूचना सं. 814/11/90—एफ (सी) के अनुक्रम में केन्द्रीय सरकार श्रीमती शशि रानी कक्कर, डाईरेक्टर बंगला, ए आई आई एम कैम्पस, अनसारी नगर, नई दिल्ली-29 को तत्काल प्रभाव से केन्द्रीय फिल्म प्रमाणीकरण बोर्ड के दिल्ली सलाहकार पैनल का सदस्य नियुक्त करती है।

[फाईल सं. 814/11/90/एफ (सी)]

एस. लक्ष्मीनारायणन, संयुक्त सचिव

New Delhi, the 16th November, 1992

APPEARANCES:

Sri Suraj Majhi, Personnel Officer—For the first party-management.

Sri G. K. Pradhan, General Secy. of the Union.—For the second party-workman

AWARD

The Government of India in the Ministry of Labour in exercise of powers conferred upon them by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following dispute for adjudication by this Tribunal vide their order No. L-12011/81/90-IRB dated 10-4-91:

"Whether the action of the management of Allahabad Bank Bhubaneswar in not effecting the transfer of Sri Bimbadhar Baliarsingh, Special Assistant, Choudwar branch to Bhubaneswar main branch is justified? If not, to what relief the aggrieved workman is entitled to?"

2. On 13-7-92 both the parties were present and filed a memorandum of settlement. They also prayed to pass an award in terms of the settlement. The terms of the settlement were read over and explained to the parties to which they admitted to be true and correct. They also submitted that they have settled the dispute out of court in the interest of industrial peace and harmony. The settlement being fair is recorded. An award is passed accordingly. The terms of settlement do form part of the Award.

Dictated & corrected by me.

R. K. DASH, Presiding Officer

FORM H

(See Rule 58)

MEMORANDUM OF SETTLEMENT

Name of Parties.

First Party—The Regional Manager, Allahabad Bank, 15/C, Bapuji Nagar, Bhubaneswar.

Second Party—ORISSA STATE ALLAHABAD BANK EMPLOYEES' UNION C/O—Allahabad Bank, Old Station Square, Bhubaneswar.

Short Recital of the Case :—

The Orissa State Allahabad Bank Employees' Union had raised an Industrial Dispute regarding the transfer of workman Shri B. Baliarsingh from Choudwar to Bhubaneswar branch. The said dispute is being adjudicated before the Hon'ble Industrial Tribunal, Orissa Bhubaneswar vide I.D. Case No. 13/91(c). During these adjudication proceedings detailed discussions were held between the parties.

Terms of Settlement.

1. As the matter in dispute in the above referred case has been settled to the satisfaction of both the parties out of court, the parties do not want to proceed any further.

2. We therefore request the Hon'ble Tribunal to pass on "no dispute award" necessary instruction be sent to the appropriate authority.

Sd/-

SIGNATURE OF THE FIRST PARTY.

SIGNATURE OF THE SECOND PARTY

S.O. 3042.—In exercise of the powers conferred by sub-section (1) of section 5 of the Cinematograph Act, 1952 (37 of 1952) read with rules 7 and 8 of the Cinematograph (Certification) Rules, 1983 and in continuation of this Ministry's Notifications No. 814/11/90-F(C) dated 30-9-91, 24-1-92, 24-8-92 and 13-11-92, the Central Government is pleased to appoint Smt. Shashi Rani Kacker, Director's Bungalow, AIIMS Campus, Ansari Nagar, New Delhi-29 as a member of the Delhi advisory panel of the Central Board of Film Certification with immediate effect and until further orders.

[File No. 814/11/90-F(C)]

S. LAKSHMI NARAYANAN, Jt. Secy.

श्रम मंत्रालय

नई दिल्ली, 16 नवम्बर, 1992

क्र. प्र. 3043.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केंद्रीय सरकार इलाहाबाद बैंक के प्रबन्धनत्व के सबब नियोजकों और उनके कर्मचारों के बीच अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, भुवनेश्वर के पंचपट की प्रकाशित करती है, जो केंद्रीय सरकार को 13-11-92 को प्राप्त हुआ था।

[संख्या एल-12011/81/90 आई आर(ब)]

वी. के. वेणुगोपालन, डेस्क अधिकारी

MINISTRY OF LABOUR

New Delhi, the 16th November, 1992

S.O. 3043.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal Bhubaneswar as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Allahabad Bank and their workman, which was received by the Central Government on 13-11-92.

[No. L-12011/81/90-IR(B)]

V. K. VENUGOPALAN, Desk Officer

ANNEXURE

INDUSTRIAL TRIBUNAL, ORISSA. BHUBANESWAR

PRESENT:

Sri R. K. Dash, LL.B.

Presiding Officer,

Industrial Tribunal,

Orissa, Bhubaneswar.

Industrial Dispute Case No. 13 of 1991 (Central)

Dated, Bhubaneswar, the 2nd November, 1992.

Between :

The management of Allahabad Bank,

15-C, Bapujinagar, Bhubaneswar.

First Party-management

(And)

Their workman Sri Bimbadhar Baliarsingh represented through All Orissa Allahabad Bank Employees' Union, Bhubaneswar-751006.

Second Party—workman.

WITNESSES.

1. N. C. BEHERA, Officer,
Allahabad Bank, Regional office
15/C, Bapuji Nagar, Bhubaneswar.

2. Biprabara Jani
Allahabad Bank,
R.O. Bhubaneswar.

नई दिल्ली, 17 नवम्बर, 1992

का. आ. 3044—औद्योगिक, विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार में. बी. सी. सी. एल. की केन्द्रीय कोलियरी के प्रबन्धन के संबंध नियोजकों और उनके कर्मचारियों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, (सं. 1), धनबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार सरकार को 12-11-92 को प्राप्त हुआ था।

[संख्या एल-20012/149/89-आई आर (कोल-I)]

बी. के. वेणुगोपालन, डेस्क अधिकारी

New Delhi, the 17th November, 1992

S.O. 3044.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 ((14 of 1947)), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, (No. I), Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Kendwadiah Colliery M/s. B.C.C.L. and their workmen, which was received by the Central Government on 12-11-92.

[No. L-20012/149/89-IR(C.I)]

V. K. VENUGOPALAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of a reference under section 10(1)(d) of the Industrial Disputes Act, 1947.

Reference No. 11 of 1990

PARTIES:

Employers in relation to the management of Kendwadiah Colliery, P.O. Kuunda, Dist. Dhanbad.

AND

Their Workman.

PRESENT:

Shri S. K. Mitra,
Presiding Officer.

APPEARANCES:

For the Employers—Shri B. Joshi, Advocate.

For the Workmen.—Shri J. D. Lall, Advocate.

STATE : Bihar

INDUSTRY : Coal

Dated, the 28th October, 1992

AWARD

By Order No. L-20012/149/89-I.R. (Coal-I), dated, the 10th January, 1990, the Central Government in the Ministry of Labour, has, in exercise of the powers conferred by clause (3) of sub-section (1) and sub-section (2-A) of section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

“Whether the demand of the Bihar Colliery Mazdoor Sabha, Dhanbad for regularisation of Doman Paswan and 29 others (given in annexure) contractor's workmen engaged in Kendwadiah Colliery of M/S. BCCL in stone cutting etc. on the roll of the company is justified? If yes, to what relief are these workmen entitled?”

अनुबंध

1. दौमन पासवान
2. गणेश पासवान
3. लक्ष्मण तुरी
4. जागो पासवान
5. विपत ठाकुर
6. श्याम पासवान
7. शिवनन्दन पासवान
8. किशुनधोत्री
9. नकुल विश्वाकर्मा
10. रामदेव भुईया
11. नसरुल मियां
12. दिलजत मियां
13. सहदेव राम
14. अनवर मियां
15. राम प्रसाद
16. सादिक मियां
17. शिव प्रसाद पासवान
18. भुवनेश्वर केबट
19. शिम्भू कालिबी
20. अर्जुन प्रसाद सिन्हा
21. नागेश्वर तुरी
22. राम लखन सिंह
23. छोटे लाल माली
24. महादेव बरही
25. जानकी लाल
26. हरी पाण्डे
27. सीताराम तुरी
28. शाहपत
29. मुन्दिका सिंह
30. शरूण पासवान

2. The case of the concerned workmen, as disclosed in the written statement of the sponsoring union, Bihar Colliery Mazdoor Sangh, details apart, is as follows :

The concerned 30 workmen had been working in Kendwadih Colliery of M/s. B.C.C. Ltd., in stone cutting and Tyndal jobs in underground mine since the last of 1983 continuously and regularly till March, 1987, when they were stopped from work abruptly consequent upon the demand of the union for their regularisation. These workmen, though engaged through intermediary contractors, Gopal Singh and Hari Singh were in fact the workmen of M/s. B.C.C. Ltd., and presence of these intermediary contractors was only a device made by M/S.B.C.C. Ltd., to hide the employer-employee relationship between the concerned workmen and the Management of M/S.B.C.C. Ltd. These workmen were issued all implements, safety devices and other materials for their underground work and they worked under the supervision and control of the supervisory staff of M/S.B.C.C. Ltd., such as, mining sirdars, overmen etc. and their attendance were marked in Form 'C' register of M/S.B.C.C. Ltd. All work in underground mine of the colliery is prohibited to be done under or by engagement of contractors under the Contract Labour (Regulation & Abolition) Act, 1973 since 1975 and, therefore, workmen engaged to work underground of a coal mine should be treated as workmen of the employer after 1975, though on paper they are shown to be contractor's workmen. Intermediary contractors are imposed by the unscrupulous employers to avoid proper payment of wages to these workmen and they were paid very meager amount as wages which are nowhere being paid to the regular workmen deployed on the similar nature of job. For example, the concerned workmen were paid a sum of Rs. 10.00 or so per day by the contractor and they were not paid any bonus or other emoluments paid to the regular workmen and this was done taking undue advantage of unemployment situation in the country. The only job performed by the so-called contractors under whom they were supposed to have worked was to prepare their wage bills to collect wages from the management of M/S.B.C.C. Ltd., and to disburse the same to the concerned workmen. In the circumstances and facts, the various unions including the sponsoring union made a demand on the management of M/S.B.C.C. Ltd., to the regularise all these workmen who were engaged in prohibited category of job in the mines of M/s.B.C.C. Ltd. The management of M/S.B.C.C. Ltd. issued a circular in the year 1986, namely, Circular No. DP/PS/86/2649-949/11 dated 8/9-5-1986 whereby all workmen engaged in prohibited categories of jobs, such as, stone cutting etc. in underground mine and who had put in 190 days attendance in any preceding year were to be regularised as Miners/Loaders. The sponsoring union, after issuance of this circular, approached the management to regularise the concerned workmen, but due to adamant attitude of the management the matter could not come to fruition and the management did not regularise these workmen. Hence the present dispute has arisen. Hon'ble Supreme Court has held in various judgements that the workmen engaged to do the work which forms integral part of the business or work of the employer, are really the workmen of the principal employer in spite of presence of intermediary contractor. Therefore, the concerned workmen are the workmen of M/S.B.C.C. Ltd., and they are entitled to be regularised as regular workmen of M/S.B.C.C. Ltd. The demand of the union for their regularisation is justified and the concerned workmen be regularised in their original jobs or any other suitable jobs including that of Miner/Loader with benefit of past service since 1982 or to grant them atleast Category-I wages for the period of their idleness.

3. The management of Kendwadih colliery has denied and disputed the claim of the sponsoring union raised on behalf of the concerned workmen. The case of the management, as appearing in the written statement-cum-rejoinder, briefly stated, is as follows :

The present reference is not legally maintainable. Kendwadih Colliery is already having surplus labour force and many workers who became surplus to the requirement of the

management had to be accommodated in neighbouring collieries. In such a situation the demand of the union for regularisation of the service of the contractor's workmen is unreasonable and absurd. The management cannot accede to such demand when the services of the workmen are not required. Besides, Kendwadih colliery is a very old mine and development work had been practically completed before nationalisation. The mining of coal continued mainly from extraction of coal from standing pillars. There was no need for engagement of a contractor for carrying on any regular job of stone cutting, drift cutting, floor dinting or roof supporting. It is absurd to suggest that the concerned workmen were engaged as regular stone cutters, through engagement of a contractor. The sponsoring union demanded before the A. L. C. (C) by its letter dated 26-5-88 that the concerned persons had worked under the contractors, Gopal Singh and Hari Singh on the jobs of stone cutting and on other jobs like job of Tyndals. The present reference is arising out of that demand. At Kendwadih contractors were engaged during the period of 1983 to 1987 mainly on miscellaneous jobs as and when available including some incidental jobs of Tyndal and stone cutting. The incidental jobs were relating to retracting of mining operations carried on in the course of depletion of coal seams. In 1987 all such works were over. No work order issued to the contractors in 1987-88 to perform any incidental jobs of underground mine. It appears that some persons had worked as contractor's workers and rest are job seekers with a mala fide motive of inducing themselves in the service of the management. The amount of bills received by the contractor will indicate the position. There is no regular job of stone cutting and as such, they can not be employed as stone cutters. The management is already having permanent Tyndals and the concerned workmen can not be absorbed on that job. No contractor was awarded with any permanent and regular type of contract to enable him to engage his workers for a period of 190 days in underground mine or 240 days on the surface and as such, the question of any of the contractor's workmen completed one year's continuous service did not arise.

4. In rejoinder to the written statement of the management, the union has asserted that the present reference is maintainable and that the statements of the management's having surplus work force and that the development work at Kendwadih colliery was completed before nationalisation are not relevant to the facts and merit of this case. The union has asserted that the concerned workmen were engaged in stone cutting job regularly for several years and this gives lie to the management's plea. There is shortage of miners/loaders in various collieries of M/S.B.C.C. Ltd. and the circular in question was issued in 1986. By the management to regularise all contractor's workers working in prohibited categories of jobs like stone cutting and other underground work. All the workmen listed in the schedule to the order of reference were working as stone cutters under the contractor and no plea was taken before Conciliation Officer that some of the workmen listed in the present reference did not work at all. Since the concerned workmen were engaged regularly from 1983 to 1987 in underground mine, it cannot be said that they did not put in 190 days attendance in any of the year from 1983 to 1987.

5. In rejoinder to the written statement of the union, the management has asserted that all the persons were not contractor's workers. The contractor's workers carried on their duties under the supervisors and control of the contractor or his munshi. The contractor's workers are engaged in underground mine on very rare occasion and in that case their names are recorded in Form 'C' Register and they are required to work in the place which is declared safe by the Mining Sirdar and Overman as per Coal Mines Regulation. It is incorrect to suggest that all the workmen of a contractor engaged in prohibited category of job will be the workmen of the management. The legal position is that the Principal employer as well as the contractor is liable for prosecution punishment or conviction in case of violation of Notification issued under the Contract Labour (Regulation & Abolition) Act, 1973. The contractor is issued with work order for execution of certain contractual job; he recruits his workmen, executes the job, submits bills and is paid for these bills and he pays his own workmen. He exercises control

over them, take disciplinary action against them and terminate their service as soon as the contract is over. The management has got no obligation to regularise contractor's workmen. In order to give relief to contractor's workmen the management issued guidelines for absorption of contract labour into the employment of the management. Such guidelines do not confer any right to automatic claim for employment.

6. The union, in order to justify its demand, examined two witnesses, namely, WW-1 Shibnandan Paswan, one of the concerned workmen and WW-2 Sekhar Sharma, Secretary of the sponsoring union and laid in evidence certain documents which have been marked Exts. W-1 to W-5.

On the other hand, the management has examined two witnesses, namely, MW-1 Kailash Singh, working in Kendwadiah colliery since 1976 as Time Keeper and MW-2 S. K. Roy, earlier posted to Kendwadiah Colliery as Manager from February, 1983 to December, 1987 and laid in evidence certain items of documents which have been marked Exts. M-1 to M-3.

7. According to the sponsoring union, all the 30 concerned workmen were working in Kendwadiah Colliery in stone cutting and tyndal jobs in underground mine since last of 1983 continuously and regularly till March, 1987 and in the process they have put in 190 days in all the years from 1983 to 1987 and that they were stopped from work abruptly consequent upon the demand made by the union for their regularisation in service after March, 1987. Even though they were engaged through intermediary contractors, S/Shri Gopal Singh and Hari Singh, they were, in fact, workmen of M/S.B.C.C. Ltd. and the presence of these intermediary contractors was only a device made by M/S.B.C.C. Ltd. to hide the employer—employee relationship between the management of M/S.B.C.C. Ltd. and the concerned workmen. It is further case of the union that all the work implements were supplied by the management and they were working under the supervisory staff of M/S.B.C.C. Ltd. and their attendance were marked in Form 'C' Register of M/S.B.C.C. Ltd.

In opposition the management has stated that Kendwadiah colliery is very old mine and development work had been practically completed before nationalisation and so there is no need for engagement of contractor for carrying on any regular job of stone cutting, drift cutting, floor dinting and roof supporting. It is the further case of the management that during the period from 1983 to 1987 the management engaged contractors mainly on miscellaneous job as and when available including some incidental jobs and tyndal jobs and stone cutting and that only some of the persons named in the annexure to the schedule of reference had worked as contractor's workmen but none of them were engaged for a period of 190 days in underground mine or 240 days on the surface.

8. MW-2 S. K. Roy was posted as Manager of Kendwadiah colliery from February, 1983 to December, 1987. He has stated that Kendwadiah colliery has now remained closed and that the Kendwadiah underground mine was sinking as it was in a process of exhaustion. He has further stated that while work in certain sections was being wound up, the materials for execution of work were lifted on the surface. As per his statement Gopal Singh was engaged also on the job of lifting of materials on the surface. He has proved a bunch of work orders which have been marked Ext. M-2 series and contractor's bills which have been marked Ext. M-3 series. He has also stated that since Kendwadiah colliery has now remained closed all the permanent workmen of the colliery except some female and male workmen, have been transferred to different collieries operating under Putki-Balihari Area. In cross-examination he has stated that Gopal Singh used to lift the machine on the surface in the context of the fact that certain sections of the mine were being wound up and in the process he had employed his workmen to bring machineries from surface to underground mine in order to ensure process of recovery. His evidence discloses that Kendwadiah mine was sinking as it was in a process of

exhaustion and most of the staff of the colliery have been transferred to different collieries operating under Putki-Balihari Area. He has proved that work order issued in favour of Gopal Singh and some bills presented by Gopal Singh. These work orders and bills indicate that Gopal Singh was engaged for various jobs from January, 1983 to sometime in April, 1985 including the job of stone cutting.

It is the case of the union that the concerned workmen were employed by the management through the agency of contractor, Gopal Singh on job of stone cutting and tyndals. The evidence of MW-2 S. K. Roy, former Manager of Kendwadiah Colliery and the documents produced by the management Exts. M-2 series and M-3 series establish the position that Gopal Singh engaged his workmen for execution of the job of stone cutting and tyndal jobs under work orders issued by the management. But the documents, as aforesaid, disclose that this contractor was not engaged continuously and regularly from the year 1983 to sometime in April, 1985. The job of stone cutting was not done by his workmen continuously and regularly.

MW-1 Shibnandan alias Sheonandan Paswan, one of the concerned workmen, has claimed that he alongwith 29 other workmen included in the present industrial dispute had worked in Kendwadiah colliery as stone cutting-cum-tyndals from 1983 upto March, 1987 and that in the process all of them had completed 240 days attendance in a calendar year. But the document Ext. M-2 series and Ext. M-3 series do not vindicate his claim that they had worked from 1983 to 1987 nor had they established the position that all of them completed 250 days attendance in a calendar year. These documents disclose that the contractor was not engaged regularly or continuously but intermittently. MW-1 Kailash Singh has been working as Time Keeper in Kendwadiah colliery since 1976. His evidence discloses that as per instruction received by him he used to maintain attendance of all workmen working under the contractors and in the process he kept the attendance of workmen engaged by the Contractor, Gopal Singh. In 1986 as per direction given by the Agent of the colliery he prepared the extract of attendance of contractor's workmen including the extract of attendance of workmen of Gopal Singh and some Co-operatives working as contractors. He has proved the extract of attendance of workmen of Gopal Singh for the years from 1983 and 1984 which have been marked Ext. M-1. He has firmly stated that since Gopal Singh did not operate in the colliery in 1985 and 1986, preparation of extract of attendance of workmen of Gopal Singh did not arise. He is not entirely correct in so far as underground working of Gopal Singh as because we have it on evidence that Gopal Singh was engaged for sometime upto April, 1985 as contractor. As a matter of fact only one bill submitted by Gopal Singh for the period from 11-4-85 to 22-4-85 for a sum of Rs. 1300/- has been produced before this Tribunal (Ext. M-3 series). So objectively there hardly remains any basis to disbelieve the evidence of this witness. The extract of attendance marked Ext. M-1 discloses that only Ganesh Paswan and Laxman Turi completed 229 and 209 days attendance in 1984. The evidence on record discloses that Gopal Singh was mostly engaged for execution of work in underground of mine in Kendwadiah colliery. The union called for the attendance register for the years 1983 to 1987 in respect of contract labour of contractors, Gopal Singh and Hari Singh. WW-1 Sheonandan Paswan has stated that Gopal Singh and Hari Singh were the contractors under whom they worked in Kendwadiah Colliery. But the evidence of MW-2 S. K. Roy discloses that during the tenure of his office at Kendwadiah the contractor Gopal Singh was operating in the colliery. The Union could not produce any evidence in support of the fact that the concerned workmen worked under the contractor Hari Singh. The union has filed requisition slips and transit slips for carrying explosives (Ext. W-1 series and W-2 series). These documents do not prove that the concerned persons worked under the contractor Hari Singh. The union has filed a representation submitted by the concerned workmen to the Manager (Ext. W-3) and the note of discussion with the management over regularisation of contractor's workmen (Ext. W-4). The note of discussion does not indicate that

the management agreed to the demand of the union for regularisation of the contractor's workmen.

9. Considering the evidence on record, I come to the conclusion that some of the concerned workmen, not all, had worked in Kendwadhi colliery under the contractor Gopal Singh, not continuously and regularly, but intermittently on the job of stone cutting and tydal jobs and other miscellaneous jobs.

10. Shri J. D. Lal, learned Advocate for the sponsoring union, has submitted that the job of stone cutting in underground mine has been prohibited under the provision of Contract Labour (Regulation & Abolition) Act by the appropriate authority. True it is that earlier there was prohibition imposed by the authority on the job of driving of stone shifts and miscellaneous stone cutting in underground mine by employment of Contractors workmen. This was done by notification in the Official Gazette dated 1-2-1975 but some relaxation has been given by another notification dated 21-6-1988. But this Notification dated 21-6-1988 is not applicable since the case dates back of 1963 to 1987.

Shri Lal has further submitted that since the management has violated the provision of Contract Labour (Regulation & Abolition) Act, the concerned workmen shall be deemed to be the workmen of the management, Principal employer. There is provision in the Contract Labour (Regulation & Abolition) Act for violation of its provision. The Act does not spell out that in case of violation of the provision of the Act, the workmen engaged by the contractor shall be the workmen of the Principal employer.

11. Shri Lal has further contended that the jobs performed by the concerned workmen were integral part of the works of the establishment and that since the concerned workmen rendered service for the management of M/s. B.C.C. Ltd. and broadly under the control of the management, they shall be deemed to be the workmen of the principal employer. In support of this contention, he has cited a decision reported in 1978 Lab. I. C. 1264. There is no evidence to indicate that all the jobs done by the concerned workmen were integral part of the establishment of the management. That apart, I have pointed out from evidence that the concerned workmen did not work continuously and regularly over the years from 1983 to 1987 but intermittently. Hence, the decision cited by Shri Lal is of no help to him.

12. The management cannot totally disclaim the right of atleast two workmen for their regularisation in service. Circular issued by the Director (Personnel) of M/s. B.C.C. Ltd. dated 8/9-5-1986 produced by the union at the time of hearing discloses the guideline issued by the management for regularisation of contractor's workmen under certain circumstances. Para 4 of the Circular reads as follows :

"Underground contractors' workers engaged in prohibited category. Such underground contractors' workers who have put in 190 days attendance in underground in prohibited categories in any calendar year during the last three years may be considered as Miners/loader subject to fulfilment of the following conditions :—

- (i) He should not be more than 40 years of age.
- (ii) He should be medically fit.
- (iii) There should be proper identification of the persons."

It appears from the extract of attendance that Ganesh Paswan (Sl. No. 2) and Laxman Turi (Sl. No. 3) put in 229 and 209 days attendance respectively in 1984. The management is bound to consider their case for engagement as miner/loader subject to fulfilment of the conditions as laid down in the circular.

13. It is the definite case of the management that only some of the workmen listed in the Annexure to the schedule of reference worked in Kendwadhi colliery. By a comparison 2905 GI/92-3.

of the list of workmen as appearing in the schedule to the reference and the extract of attendance, it appears that Doman Paswan (Sl. No. 1), Ganesh Paswan (Sl. No. 2), Laxman Turi (Sl. No. 3), Jago Paswan (Sl. No. 4), Bipat Thakur (Sl. No. 5), Shyam Paswan (Sl. No. 6), Sheo Nandan Paswan (Sl. No. 7), Kishan Dhobi (Sl. No. 8), Ramdeo Bhuiya (Sl. No. 10), Shibhu Kalindi (Sl. No. 19), Arjun Pd. Sinha (Sl. No. 20), Maladeo Barhi (Sl. No. 24), Hari Pandey (Sl. No. 26), Sitaran Turi (Sl. No. 27) and Sahdutt (Sl. No. 28) had worked in Kendwadhi as workmen engaged by Gopal Singh and others did not work as workmen of Gopal Singh in that colliery. But only the two workmen, namely, Ganesh Paswan (Sl. No. 2) and Laxman Turi (Sl. No. 3) had worked for more than 190 days in 1984 and none of the aforesaid other workmen had worked for 190 days either in 1983 or in 1984 as per the extract of attendance. Hence, the management is bound to consider the case of the aforesaid two workmen for their engagement as miner loader.

14. Accordingly, the following award is rendered the demand of the Bihar Colliery Mazdoor Sabha, Dhanbad, for regularisation of Doman Paswan and 29 others contractor's workmen engaged in Kendwadhi Colliery of M/s. B.C.C. Ltd. in stone cutting etc. on the roll of the company is not fully justified. The management is directed to consider the case of Ganesh Paswan (Sl. No. 2) and Laxman Turi (Sl. No. 3) for their regularisation as Miner/Loader subject to their fulfilling the conditions as laid down in the Circular dated 8/9-5-1986 within three months from the date of publication of the award.

In the circumstances of the case, I award no cost.

S. K. MITRA, Presiding Officer

नई दिल्ली 18 नवम्बर 1992

का. आ. 3045—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार देना बैंक के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, जयपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1/11-92 को प्राप्त हुआ था :

[संख्या एल-12012/145/91 आई.आर.—(बीII)]

बी. के. वेणुगोपालन, डेस्क अधिकारी

New Delhi, the 18th November, 1992

S.O. 3045.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal, Jaipur as shown in the Annexure in the Industrial Dispute between the employers in relation to the Mgt. of Dena Bank and their workmen, which was received by the Central Government on 17-11-92.

[No. L-12012/145/91-IR(B.II)]

V. K. VENUGOPALAN, Desk Officer

अनुवृत्त

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर

केस नं. सी.आई.टी. 47/91

रेफरेंस: भारत सरकार, श्रम. मंत्रालय, नई दिल्ली का आदेश

क्रमांक 12012/145/आई.ए.ए. /91 आई.आर.,

बी./दिनांक 29-8-91

श्री लोकेश कुमार मिश्रा द्वारा राजस्थान बैंक
एम्पलाईज यूनियन, जयपुर ।

—प्रार्थी

बनाम

महाप्रबन्धक (परिचालन) देना बैंक, मुख्य कार्यालय
मैकर टावर्स, कफ परेड, बम्बई ।

—अप्रार्थी

उपस्थित

माननीय न्यायाधीश श्री गंकर लाल जैन, आर. एच.
जे. एस.

प्रार्थी संघ की ओर से : श्री आलम खान
अप्रार्थी बैंक की ओर से : कोई हाज़िर नहीं (एकपक्षीय)
दिनांक प्रवाद : 18-9-1992

प्रवाद

भारत सरकार, अम मंत्रालय, नई दिल्ली ने अपने
उपरोक्त आदेश द्वारा निम्न विवाद इस न्यायाधिकरण को
वास्ते अधिनियम औद्योगिक विवाद अधिनियम 1947 की धारा
10(1)(घ) के अन्तर्गत भेजा है।

"Whether the action of the management of Dena Bank
Main Office, Mankers Towers, Cuffe Parade,
Bombay dismissing the services of Shri Lokesh
Kumar Mishra, a cashier-cum-clerk in the M.I. Road
Branch, Jaipur and represented through RBEU
(affiliated to IBEA) Unit Office, Madangopal Ji Ka
Mandir, SMS highway, Jaipur is legal, proper and
just, if not, what relief the workman is entitled to ?

2. उप महासचिव, राजस्थान बैंक एम्पलाईज यूनियन
जिसे तत्पश्चात् प्रार्थी संघ संबोधित किया है, ने जरिये क्लेम
पकट किया कि कर्मकार श्री लोकेश कुमार मिश्रा, खजान्ची-
सह-लिपिक ने देना बैंक एम.आई. रोड जयपुर शाखा में
दिनांक 11-2-82 को अपनी सेवा प्रारंभ की तथा प्रारंभ से
ही ट्रेड यूनियन गतिविधियों में सक्रिय भाग लेने लगा, इस
कारण बैंक का प्रबन्धक उससे खुश नहीं था और उसे येन-
केन प्रकारेण बैंक सेवा से बाहर निकालना चाहता था और
बैंक प्रबन्धक ने संबंधित शाखा के मामलातों के तथ्यों को
तोड़ मरोड़कर कर्मकार के विरुद्ध झूठे व मनगढ़न्त आरोप
गढ़कर आरोप पत्र आवि जारी किये किंतु प्रबन्धक ने आज
तक उन मामलों में वास्तविकता जानने के लिए जांच तक
करवाना उचित नहीं समझा। इस प्रकार तथ्यांकित आरोप
आज तक भी अप्रुष्ट हैं। विभागीय जांच में कर्मकार को
नैसर्गिक न्याय के सिद्धांतों के अनुसार अपना पक्ष प्रस्तुत
करने का अवसर न देकर न्याय नहीं दिया गया। इस प्रकरण
में, जिस पर विवाद है, प्रबन्धक ने कामगार को बिना
नोटिस दिये आदेश क्रमांक एन. जी. आर./पी.ई.आर./
884689 दिनांक 21-10-89 द्वारा बैंक सेवाओं से बर्खास्त

कर दिया। प्रार्थी संघ यह भी कहता है कि कर्मकार को
ट्रेड यूनियन गतिविधियों की सक्रियता के कारण प्रबन्धन द्वारा
पड़यत्न में फंसाकर शिकार बनाया गया है और बैंक की
सेवा से मुक्त किया गया है। इस प्रकार बैंक प्रबन्धन ने
नैसर्गिक न्याय के सिद्धांतों को ठुकरा दिया है। अतः संघ की
कर्मचारी श्री लोकेश कुमार मिश्रा को पूर्ण विग्राह्य लाभ व
वेतन सहित तुरंत सेवा में बहाल किये जाने के आदेश पारित
किये जावें।

3. अप्रार्थी बैंक की ओर से बाद तामील नोटिस कोई
उपस्थित नहीं आया। अतः विपक्षी पर नोटिस की सम्यक्
तामिल मानते हुए उसके विरुद्ध 6-3-92 को एक पक्षीय
कार्यवाही करने के आदेश दिये गये। यह उल्लेखनीय है कि
अप्रार्थी को दुबारा दिनांक 1-8-92 को जरिये रजिस्टर्ड डाक
भी नोटिस भेजा गया जिसकी प्राप्ति के उपरांत भी विपक्षी
की ओर से कोई उपस्थित नहीं आया। एकपक्षीय साक्ष्य
में कर्मकार श्री लोकेश कुमार मिश्रा का शपथ पत्र प्रस्तुत
हुआ है। प्रार्थी संघ के प्रतिनिधि श्री आलम खान को
एक पक्षीय बहस सुनी गई पलाबली पर उपलब्ध सामग्री
एवं विधि के सुसंगत सिद्धांतों का ध्यानपूर्वक परीक्षण
किया गया।

4. एकपक्षीय साक्ष्य में श्री लोकेश कुमार मिश्रा ने श्री
शपथ पत्र द्वारा क्लेम के कथनों की पुष्टि की है कि वह
विपक्षी संस्थान देना बैंक की एम.आई. रोड जयपुर शाखा
में खजान्ची-सह-लिपिक के पद पर बैंक की सेवा में दिनांक
11-2-82 से कार्यरत था और वह अपनी सेवाओं के
स्थाईकरण के तुरंत बाद में राजस्थान बैंक एम्पलाईज यूनियन
का सदस्य बना तथा यूनियन के कार्यों में सक्रिय भाग लेता
प्रारंभ कर दिया। इस प्रकार बैंक प्रबंधन द्वारा निराधार व
मनगढ़न्त आरोप लगाये गये जो उसके विरुद्ध सिद्ध नहीं हो
पाया। उक्त आरोप पत्रों की प्रतियां क्रमशः परिशिष्ट
1, 2 व 3 क्लेम के साथ संलग्न की गई हैं। बैंक प्रबंधन
ने तत्कालीन शाखा प्रबंधक श्री शशीकान्त के साथ मिलकर
कूट निर्धारित भस्तिष्क से उसके खिलाफ एक दुर्भावनापूर्ण
पड़यत्न रचा है। एक मामूली लिपिकीय प्रशुद्धि के सामान्य
संशोधन को धोखाधड़ी का रंग देकर मनगढ़न्त आरोप लगाकर
अंततोगत्वा उसे दिनांक 21-10-89 को बैंक की सेवाओं से
बर्खास्त कर दिया। यह कि उस पर झूठे व मनगढ़न्त आरोप
लगाये कि उसने बैंक के साथ धोखाधड़ी की, बैंक रिकार्डों
के साथ छेड़छाड़ की तथा बैंक के हितों के विरुद्ध पूर्वाग्रह
पूर्ण कार्य किया। इस प्रकार आरोपों में दो घटनाएं वर्णित
की गई हैं। एक घटना रुपये 5,000 हेतु व अन्य रुपये
12,000 हेतु। एक पक्षीय साक्ष्य से यह प्रमाणित हुआ है
कि श्री लोकेश कुमार मिश्रा का एक संयुक्त खाता देना बैंक
की एम.आई. रोड शाखा में उसके, राकेश शर्मा व धीरेन्द्र
सिंह के नाम से है जिसमें एक चेक सं. 1755825 दिनांक
22-9-86 जो कि श्री अभिवेक से मिला था, जमा करवाया
गया। उक्त बैंक पास होने पर संयुक्त खाते में जमा हो

गया। तत्पश्चात् उक्त खाते से रकम आहरण की गई जो सर्वथा सही व उचित थी। प्रबन्धन के गवाह साक्ष्य-1 ने जो तत्कालीन प्रबंधक थे, विभागीय जांच में दिनांक 21-11-88 की कार्यवाही के पृष्ठ सं. 5 पर प्रति परीक्षण के प्रश्न सं. 28 व 29 का उत्तर देते हुए स्पष्ट तौर पर कहा है कि संबंधित बैंक व जमा पर्वी बंध व उचित प्रलेख है। जांच में दिये गए बयान का भाग परिशिष्ट-4 है। परिशिष्ट 4-अ 5000 रुपये के संबंध में जमा पर्वी है तथा खाताधारी कैलाश मोहन माथुर ने 5000 रुपये का बैंक जारी करने के संबंध में बैंक को एक आवेदन पत्र प्रस्तुत किया जो परिशिष्ट 5 है। यह पत्र बैंक को प्राप्त हुआ जो प्रलेख डी. ई. 1(2) है। ऐसा प्रतीत होता है कि संबंधित बैंक समाशोधन गृह के द्वारा स्टेट बैंक ऑफ बीकानेर एंड जयपुर की तिलक नगर शाखा में भेजा नहीं गया इसके लिए कर्मकार को दोषी ठहराना उचित नहीं कहा जा सकता।

5. रुपये 12,000 के संबंध में जो आरोप लगाया गया है वह इस प्रकार है कि श्री अभिवेक कुमार ने एक बैंक कर्मकार के एक संयुक्त खाताधारी को दिया जो बैंक में जमा करा दिया गया, परिणामस्वरूप राशि कर्मकार के खाते में जमा होने पर उस राशि के सामने आहरण की गई किंतु अनजाने कारणों से अथवा संयोगवश जिन तृतीय पक्षकारों के बैंकों/प्रलेखों के सामने श्री अभिवेक कुमार के खाते में जमाएं आनी थी, वह उस दिन संबंधित खाते में नाम दर्ज होने से रह गई हालांकि उन समस्त खातों में पर्याप्त राशि शेष थी। कालान्तर में द्रुति का भान होने पर ये प्रविष्टियां बैंक/शाखा की संशोधन परिपाटी के अनुसार संबंधित खातों में कर दी गई तथा सभी खातों में सही शेष निकाल लिये गये। इन प्रविष्टियों के उपरांत की गई प्रविष्टियों की जांच संबंधित अधिकारियों द्वारा की गई तथा इन प्रविष्टियों की पुष्टि भी बैंक द्वारा की जा चुकी थी। ये समस्त बैंक प्रलेख विभागीय जांच के दौरान तत्कालीन शाखा प्रबन्धक व प्रबन्धन के गवाह सं. 1 जिसकी मूल प्रकायत मात्र पर कर्मकार को आरोप पत्र व निलंबन आदेश दिये गये थे, को उचित व वैधानिक करार दिया गया है। अक्टूबर 4 बयान के भाग में प्रश्न सं. 27 के उत्तर में 12000 रुपये की प्रविष्टियों का होना माना गया है।

6. इस प्रकार प्रार्थी की एकपक्षीय साक्ष्य से यह प्रमाणित हुआ है कि कर्मकार ने बैंक के साथ कोई धोखाधड़ी नहीं की, न ही उसने बैंक रिकार्ड के साथ छेड़छाड़ की तथा न ही बैंक के हितों के विरुद्ध पूर्वाग्रहपूर्ण कार्य किया। इन परिस्थितियों में कर्मकार को निर्विधिता स्वयंसिद्ध हो जाती है कि पूर्व से ही ने कर्मकार को कथित मामले में अपनी स्थिति स्पष्ट करने का अवसर प्रदान नहीं किया और इस प्रकार जांच के समस्त सिद्धांतों का मज़बूत दाज करते हुए, बिना प्रोपर विभागीय जांच कराये तथा नोटिस विये सेवा से बर्खास्त कर दिया जो कि औद्योगिक विवाद अधिनियम 1947 की धारा 25-एफ से बिल्कुल विपरीत है।

विधि के उपरोक्त समस्त कारणों, तथ्यों व परिस्थितियों को देखते हुए इस निवेदन का अधिनियम निम्न प्रकार से किया जाता है :

“श्री लोकेश कुमार मिश्रा की विपक्षी संस्थान देना बैंक द्वारा दिनांक 21-10-89 को की गई सेवा मुक्ति औद्योगिक विवाद अधिनियम 1947 की धारा 25-एफ के विपरीत होने से स्वतः ही अनुचित एवं अवैध हो जाती है जिसे अवास्त किया जाता है। कर्मकार श्री लोकेश कुमार मिश्रा को उसके पद पर नियोजित घोषित करते हुए सेवा मुक्ति की दिनांक से ही उसे उसके पद का समस्त वेतन व अन्य सभी लाभ दिलाये जाते हैं, सेवा की निरंतरता कायम रखी जाती है। अगर नियोजक उक्त बकाया राशि अंदर तीन माह कर्मकार को अदा नहीं करेगा तो श्रमिक उससे 12 प्रतिशत वार्षिक दर से ब्याज पाने का भी अधिकारी होगा।”

7. उपरोक्त आशय का एकपक्षीय अवार्ड पारित किया जाता है जो केन्द्र सरकार की धारा 17(1) के अन्तर्गत प्रकाशितार्थ भेजा जावे।

पंकर लाल जैन, पीठासीन अधिकारी

नई दिल्ली, 18 नवम्बर, 1992

का. भा. 3046.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, यूनियन बैंक ऑफ इण्डिया के प्रबन्धनतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-11-92 को प्राप्त हुआ था।

[संख्या एल-12012/465/87-बी-2(ए)]

वी. के. वेणुगोपालन, डेस्क अधिकारी

New Delhi, the 18th November, 1992

S.O. 3046.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the Mgt. of Union Bank of India and their workmen which was received by the Central Government on 17-11-92.

[No. L-12012/465/87-D.II(A)]

V. K. VENUGOPALAN, Desk Officer

ANNEXURE

BEFORE SRI ARJAN DEV, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, PANDU NAGAR, DEOKI PALACE ROAD, KANPUR

Industrial Dispute No. 42 of 1988

In the matter of dispute between :

General Secretary,
U. B. I. Employees Union,
C/o. Union Bank of India
Aminabad Dr. B. N. Verma Road,
Lucknow.

AND

Divisional General Manager,
Union Bank of India,
Hotel Clarks Awadh,
8 M. G. Marg, Lucknow.

AWARD

1. The Central Government, Ministry of Labour, vide its notification No. L-12012/465/8/-D.II(A) dated 25th March, 1988, has referred the following dispute for adjudication to this Tribunal :—

Whether the action of the management of Union Bank of India in ignoring the transfer claim of Sri A. C. Saxena, C/C Moradabad to Lucknow on spouse grounds and transferring others whose name appear below Sri Saxena in the transfer request register is justified? If not, to what relief is the workman entitled?

2. The case of the Union is that the workman who is a permanent employee of the Bank is at present posted as Clerk-cum-Cashier at Moradabad. On 20-3-82, he made an application requesting the management to diarise his name for transfer from Moradabad to Lucknow. According to the Union the bank has a policy to acceding to such transfer request on the basis of First Come first Serve. Subsequently the workman again made a request for his transfer from Moradabad to Lucknow on spouse ground on the basis of Government Order dated 13-4-86. With his application the workman enclosed a certificate issued by the employer of his wife that she was employed on a non-transferable post. However, the bank acceded to the request of Sri Amreesh Kumar Srivastava, and Sri Alok Misra both clerks on spouse grounds, although they had made request for transfer from the station of their postings after the diarisation of the name of the workman in the transfer diary. Whereas Sri Amreesh Kumar Srivastava was transferred from Jaunpur to Kanpur Sri Alok Misra, was transferred from Jaunpur to Lucknow. When it was brought to the notice of the management that in the matter of transfer request, the workman has been discriminated, the management with the Union agreed to accede to all such transfer request as were received at Zonal Office Lucknow before 5-6-86. But despite that the said agreement was not implemented by the management. The Union has, therefore, prayed that the management of the bank be directed to transfer the workman from Moradabad to Lucknow and be further directed to pay night allowance to the workman in terms of bipartite settlement from the date of transfer of Sri M. Amreesh Kumar Srivastava from Jaunpur to Kanpur.

3. The management contested the case. The management admit that the workman by means of his application at 20-3-82 had made a request for his transfer from Moradabad to Lucknow. His request was noted in the transfer diary. The management further admit that the bank had a policy for acceding to such requests, subject however, to administrative requirements/exigencies of the bank, employees seniority in the transfer diary and need/vacancy at the particular station. The management also admit that subsequently the workman had made a request for his transfer from Moradabad to Lucknow on spouse ground on the basis of Government order dt. 13-4-86 and with his application for transfer on spouse ground he had sent a certificate of the employee of his wife that she was employed on a non-transferable post. Although the transfer of employee is a management function and prerogative of the management, while effecting transfer the management try to accede to the transfer request and accommodate employees to places of their choice on the basis of merits of each individual case keeping in view of exigency of the bank and manpower requirement to a particular branch/Region/Zone. While doing so it has not always been possible to accommodate all the employees at the place of their choice. The management do not dispute the agreement, alleged by the Union but simply plead in this regard that the management simply informed the Union that the request received from employees till

5-6-86 in respect of transfer on spouse ground would be considered on merit of each case and decision in this regard would be communicated. Even in the guideline issued by the Government of India, the government has used term 'as far as possible'. None of the guidelines compulsorily requires the spouse to be posted together.

4. In support of its case, the Union has led both oral and documentary evidence. The oral evidence of the Union consists of the statement of the workman Sri Anil Chandra Saxena. On the other hand in support of their case the management have examined Sri S. N. Mehra, Dy. Manager Personnel Branch at Lucknow.

5. Ext. W-7 is the copy of Office Memorandum dt. 3-4-86 issued by the Ministry of Personnel Public Grievances & Pension, Government of India on the subject of posting of husband and wife at the same station. By means of this O.M. the Government of India gave some guidelines for considering the request of employees of the Central concerns for their posting to places where their spouses are employed.

6. Ext. W-6 is the copy of letter dt. 25-7-86 from the A.R.M. to the General Secretary, UBI Employees Association Lucknow informing him that request received from employees till 5-6-86 in respect of transfers on spouse ground were being considered on merit of each case and decision in this regard would be communicated to the concerned employees. The A.G.M. also informed him that as mutually agreed upon no such transfer request would hereafter be considered and the cases of the employees as mentioned in his letter were being considered purely on compassionate ground without creating any precedence whatsoever. From this letter it appears that the management had decided not to consider transfer request on spouse ground in respect of applications received after 5-6-86. The management, however, expressed their willingness to consider the cases of employees who had made such transfer requests upto 5-6-86 purely on compassionate grounds without creating any precedence. During the course of his arguments it was contended by Sri O. P. Misra, the authorised representative for the Union that although the workman had applied for his transfer from Moradabad to Lucknow, much before S/Sri Amreesh Kumar Srivastava and Alok Misra, he was not transferred to Lucknow; rather the said two workmen/employees were transferred to stations of their choice. Thus the workman was discriminated.

7. I find no force in this argument. There has been no discrimination by the management as alleged by Sri O. P. Misra. A joint inspection was ordered in this case and the joint inspection note signed by Sri O. P. Misra the authorised representative for the Union and Sri S. N. Mehra Manager Personnel is on record. It will appear from the joint inspection note that on spouse ground, Sri Alok Misra Clerk-cum-Cashier applied for his transfer on 31-3-86 and the workman applied for his transfer on 21-4-86. Since in this case and during the course of arguments Sri Misra has based the claim of the workman for transfer on spouse ground that has heavily relied upon the government order dt. 3-4-86, it cannot be said that the workman in any way discriminated. His case could have been considered only after the case of Sri Alok Misra. Much reliance cannot be placed on his first application for transfer dt. 20-3-82 copy ext. M-6 as at that time he was simply a bachelor and he had made a request for his transfer from Moradabad to Lucknow on the ground that his parents were ill and physically handicapped. It was for the first time in his application dated 21-4-86 Ext. W-7, it was stated by him that he was married to Mrs. Renu Saxena on 11-3-86 and that Mrs. Renu Saxena was working at U.P. State Electricity Board at Lucknow as L.D.C.

8. So far as the other man, namely, Sri Amreesh Kumar Srivastava is concerned, his case of transfer cannot be made a ground for the alleged discrimination. From the claim statement itself it is evident that Sri Srivastava was transferred from Jaunpur to Kanpur. The workman has not sought his transfer to Kanpur. So if on account of some of vacancy Sri Amreesh Kumar Srivastava was accommodated it cannot be said that the management was guilty of any discrimination. The whole case of the Union is based on behalf of the workman on the alleged discrimination which I have shown as not proved at all. As such no relief can be granted to the Union workman. All that can be said is that since the workman

had applied for his transfer on spouse ground before 5-6-86, as and when vacancy occurs at Lucknow he should be accommodated provided there is no better claimant than him.

9. Hence the action of the management on the point under consideration cannot be held as unjustified, however as remarked by me above, the management should consider the transfer request of the workman Sri A. C. Saxena on spouse grounds on compassionate ground in future provided there is no better claimant than him.

10. Reference is answered accordingly.

ARJAN DEV, Presiding Officer

नई दिल्ली, 19 नवम्बर, 1992

का.प्र. 3047.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, म. बी.सी.सी. एल. की जालगोरा कोलियरी के प्रबन्धकों के संवेदन नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, (सं.-2), धनबाद के पंचपट का प्रकाशित करता है, जो केन्द्रीय सरकार का 18-11-92 को प्राप्त हुआ था।

[संख्या एल-20012/170/90-माई.आर. (काल-I)]

श्री. के. वेणुगोपालन, डेस्क अधिकारी

New Delhi, the 19th November, 1992

S.O. 3047.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, (No. 2), Dhanbad as shown in the Annexure to the Industrial Dispute between the employers in relation to the mgt. of Jealgora Colliery of M/s. B.C.C.L. and their workmen, which was received by the Central Government on 18-11-92.

[No. L-20012/170/90-IR(Coal-I)]

V. K. VENUGOPALAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT :

Shri B. Ram, Presiding Officer.

In the matter of an industrial dispute under Section 10(1)(d) of the I. D. Act, 1947.

REFERENCE NO. 48 OF 1990

PARTIES :

Employers in relation to the management of Jealgora Colliery of M/s. Bharat Coking Coal Ltd. and their workmen.

APPEARANCES :

On behalf of the workmen.—Shri D. Mukherjee, Advocate.

On behalf of the employers.—Shri B. Joshi, Advocate.

STATE : Bihar

INDUSTRY : Coal

Dated, Dhanbad, the 6th November, 1992

AWARD

The Govt. of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I.D.

Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/170/90-IR. (Coal-I), dated, the 11th December, 1990.

SCHEDULE

"Whether the action of the management of Jealgora Colliery, Bhowra Area No. XI of M/s. BCCCL in stopping Shri Kailash Prasad Accounts Clerk from work w.e.f. 22-2-88 is justified? If not, to what relief the workman is entitled?"

2. Shri Kailash Prasad is admittedly Accounts Clerk working under the management of Jealgora Colliery, Bhowra area No. XI of M/s. BCCCL and he was alleged to have been stopped with effect from 22-2-88 without assigning any reason. Subsequently in the W. S. it was stated that he was superannuated on 22-2-88 after completion of 60 years of age but this date of superannuation was challenged by the concerned workman stating that his date of birth as declared in Form B Register was 5-5-1940 meaning thereby that he was to retire on 5-5-2020. In this way the workman has to say that he was illegally retired with effect from 22-2-88. He pressed his demand before the management of BCCCL but it was of no use. Even the conciliation proceeding failed and hence this reference.

3. The management on the other hand stated that his actual age as recorded in Form B Register was 33 years on 20-2-61. This means on the date of his initial appointment his year of birth was 1928 and so he was rightly superannuated on 22-2-88 after attaining the age of 60 years.

4. The management further stated that originally he was appointed as Assistant Colliery of M/s. Uisco. Ltd. in the year 1952 describing himself as Kailash Prasad where he was allotted C.M.P.F. No. 9/10/714 dated 1-10-52. The concerned workman was subsequently dismissed from service in June, 1959 and after that he started working in the collieries of M/s. East Indian Coal Co. Ltd. on and from 22-6-61. The concerned workman managed to get new C.M.P.F. No. JHA/19/2 dated 8-12-83 by sending his return from Jealgora office although at the relevant time he was a workman of Bhulanbararee colliery. In that C.M.P.F. return he further managed to show his date of birth as 5-5-40 and on the basis thereof even in subsequent document the same date of birth was shown. In this way the management has to say that he got his date of birth manipulated in the record of the management and his actual age was 33 years on 20-2-61 and that the management was rightly superannuated him with effect from 20-2-88.

5. Now in the circumstances of the case the point for consideration is as to whether the retirement of the concerned workman with effect from 22-2-88 was justified or not?

6. The most important document relied upon by the management is the photo copy of Form B Register. It may be noted that Form B Register is a statutory register to be maintained under Section 48 of the Mines, Act, 1962 and every details of the individual workman including the age or the date of birth is noted at the time of initial appointment and the signature or the L.T.I of the workmen is obtained in token of the correctness of the entry. Thus the job of the clerk noting the details in the register is very important and responsible because a workman is supposed to retire on the basis of the age recorded in the register. Ext. M-1 is the photo copy of Form B Register filed by the management wherein his age has been shown as 33 years on 20-2-61. The concerned workman had also signed at the appropriate place. This means he was born in the year 1928 but this document has been branded as forged and fabricated by the concerned workman on the ground of apparent interpolation in recording of age. It may be pointed out that the original of the Form B Register was called for but the management failed. In this connection the evidence of MW-1 Shri C. S. Prasad, Sr. P. O. Jealgora colliery may be looked into. He stated that since there was some other case already pending and so the original might be lying there. However, he failed to give out the number of any such case where this original were supposed to have been lying. The witness also assured that original Form B Register could be produced in the Court. I find that the same could not be produced till the last.

7. Now let us look to Ext. M-1. The learned counsel for the management submitted that the originally the age of the concerned workman was recorded as 43 years but it was interpolated and made to look as 33 years. I think this is very unfortunate state of affairs that the most important document of the management are being interpolated and mis-handled by some disgruntled elements and the discredit will always go to the management. This can be interpreted in other ways also that at the time of initial appointment some mischief might have been committed. The second aspect of this document is that the name of the concerned workman has been noted as Kailash only and his C.M.P.F. has also been noted as C/167714. In all other cols we find that the date, month and the year have been recorded showing the date of birth of the workmen but in case of concerned workman only 33 years has been written. On the other hand the management has filed one another photo copy of Form B Register which has been marked Ext. W-1. In that document the name of the concerned workman has been written as Kailash Prasad and his date of birth has been shown as 5-5-1940. It also transpired that this was prepared in the year 1986. The witness MW-1 has explained that another Form B Register may come into existence on account of misunderstanding or with malafide intention. He explained that the concerned workman on transfer had brought LPC showing his date of birth as 5-5-40 and hence this Form B Register (Ext. W-1). He further stated that this wrong was detected by the management later on but no notice was taken thereon. I think such type of explanation cannot be accepted by any Court of law. If Form B Register was wrong the same should have been cancelled by a definite and positive order. For these reasons it is very difficult to place complete reliance upon Ext. M-1.

8. The next document filed by the management is the photo copy of Identity card but the space provided for the date of birth has been left blank. The original was called for but could not be produced. Ext. M-3 is the photo copy of the letter written by Shri K. G. Menon, Regional Commissioner, CMPF to the Agent, Jealgora colliery intimating him that the date of birth of the concerned workman recorded at the time of initial appointment was not traceable. The letter further shows two P. F. No. of the concerned workman. His P. F. No. was C/167714 which was allotted from Digwadih colliery in the year 1952. Here the question arises as to how an old C.M.P.F. No. will be allowed to continue when according to the management the concerned workman was dismissed from the services in the year 1959.

9. There are few other documents on behalf of the management, Ext. M-4 is the photo copy of the Form A register submitted to the C.M.P.F. Commissioner. The document is not very legible and I had nothing very specific to make any comment on this document. This was sent to the C.M.P.F. Commissioner in the year 1973 most probably for allotment of the number. The management further stated that the concerned workman for his promotion in the clerical grade had submitted the photo copy of the matriculation certificate showing his date of birth as 5-5-1940. It is Ext. M-6. In confirmation of that document necessary correspondence had been made with the headmaster of the Institution. In reply the head master reported that the concerned workman had never passed B.S.S. examination in the year 1960 from his school. The document has been marked Ext. M-5. The learned counsel for the concerned workman submitted that the workman never claimed to have passed matriculation examination. Apart from that his further grievance was that the head master giving a very important information against the concerned workman ought to have been examined to test his veracity. The learned counsel for the management submitted that this Ext. M-6 was filed by the concerned workman because he wanted to become a clerk and no person can be appointed as a clerk unless he is matriculate. In my opinion this contention cannot be allowed to sustain. The cadre scheme came into existence in the year 1975 and prior to that there was no embargo or any limitation that a person having knowledge of reading and writing could not be appointed as a clerk. This stand of the management can be further falsified from Ext. M-1. The Tribunal can take notice of the fact that 75 per cent of employees working in the coal mines are illiterate

having no schooling but the document will show that the particular date of birth has been noted in the relevant column with regards to so many workmen and in column 9 they all have put their L.T. This means they had no school and they are illiterate but the specific date of birth has been noted. In such view of the matter it is not always necessary that the specific date of birth can be recorded only after passing the matriculation examination.

10. There is one more document on behalf of the management which is a letter dated 22nd February, 1988 written to the Regional Commissioner, C.M.P.F., Dhanbad by the Agent, Jealgora colliery asking for date of birth of the concerned workman. The management did not file any reply to that letter but the workman has filed a reply of that letter which is Ext. W-9. That was written to the Agent, Jealgora Colliery by the Asstt. Commissioner, C.M.P.F., Dhanbad stating that the date of birth of Shri Kailash Prasad Account No. GHA/19/2 was 5th May, 1940 as per official record. This shows that even the official record of the management was showing that the date of birth of the concerned workman as 5th May, 1940.

11. Ext. W-2 (W-3) which is the photo copy of the service excerpts wherein the date of birth has been shown as 5th May, 1940. The same document has been marked twice as Ext. W-10. Ext. W-11 is the photo copy of the important excerpts from the service record for communication to all the concerned. The most important document is Ext. W-12 whereby Shri A. P. Sinha, the Chief General Manager had written to Shri Rajdeva N. Sinha, Advocate of the concerned workman giving necessary information that the matter concerning illegal retirement of Shri Kailash Prasad was examined at his level and necessary instruction have already been issued to the GM, Bhowra Area to allow Shri Kailash Prasad to join his duty. This is further suggestive of the fact that the management was also of the view that the concerned workman has been illegally superannuated. I find that few more documents are in the store of the workmen to justify his stand. Ext. W-5 is the photo copy of the L.P.C. showing his date of birth as 5-5-40. Ext. W-7 and W-8 are the photo copies of the identity card issued to the concerned workman. On Ext. W-7 the date of birth of the concerned workman has been recorded as 5-5-1940. Ext. W-8 was issued on 1-1-77 and on that date his age has been recorded as 36 years which comes about 1940.

12. I have examined this aspect of the matter and I find that there are number of documents to support the contention of the concerned workman that his date of birth was 5-5-1940. The concerned workman has examined himself as WW-1 and he also supported and stated that he was born in the year 1940. He has denied to possess any matriculation certificate. I find nothing very specific in his cross-examination to disbelieve his credence. For the reasons stated above I am to hold the view that the action of the management in stopping the concerned workman with effect from 22-2-88 was not justified. The management is thus directed to reinstate the concerned workman in his original place with payment of full back wages and other consequential benefits with effect from the date of his stoppage within one month from the date of publication of the Award.

B. RAM, Presiding Officer

नई दिल्ली, 20 नवम्बर, 1992

का.ग्रा. 3048.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, पंजाब नैशनल बैंक के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नई दिल्ली के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-11-92 को प्राप्त हुआ था।

[मंख्या एल-12012/256/91-आइ आर (बी II)]

वी. के. वेणुगोपालन, ईस्क अधिकारी

[संख्या एन-12012/232/91-अ(ई. अर) (बो-11)]

श्री. के. वैद्यमानन्द, उद्योग सचिव

New Delhi, the 20th November, 1992

S.O. 3049.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, New Delhi as shown in the Annexure in the Industrial Dispute between the employers in relation to the Mgt of Punjab National Bank and their workmen, which was received by the Central Government on 19-11-92.

[No. L-12012|232|91-IR(B.II)]

V. K. VENUGOPALAN, Desk Officer.

[No. L-12012/256/91-IR(B.II)]
V. K. VENUGOPALAN, Desk Officer

ANNEXURE

BEFORE SHRI GANPATI SHARMA : PRESIDING
OFFICER : CENTRAL GOVT. INDUSTRIAL TRIBUNAL:
NEW DELHI

I. D. No. 15/92

In the matter of dispute between :

Smt. Raka Kukreja, Teller,
Through Mahasachiv,
P. N. B. Employees Union,
W-8, Green Park,
New Delhi-110016.

Vergius

**Zonal Manager,
South Delhi Zone,
Punjab National Bank,
F-14, Competent House,
Connaught Place, New Delhi-110001.**

APPEARANCES :

Shri V. K. Gupta for the workman.
Smt. Rashmi Khanna for the Management.

AWARD

The Central Government in the Ministry of Labour vide its Order No. L-12012/256/91-I.R.(B.2) dated Nil has referred the following industrial dispute to this Tribunal for adjudication :

"Whether the action of the Management of Punjab National Bank in recovering Rs. 10,000/- from the salary of Smt. Raka Kukreja, Teller, is justified? If not, to what relief is the workman entitled?"

2. The case was fixed to day for filing the rejoinder when the representative for the workman made statement that the dispute in question has since been amicably settled and no dispute award may be given. Smt. Rashmi Khanna for the management also signed the statement.

3. In view of the above situation since the dispute has been amicably settled between the parties so no dispute award is given in this case leaving the parties to bear their own costs.

12th October, 1992.

GANPATI SHARMA, Presiding Officer

नई दिल्ली, 20 नवम्बर, 1992

का. आ. 3049.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, पंजाब नेशनल बैंक के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण,

ANNEXURE

BEFORE SHRI GANPATI SHARMA : PRESIDING OFFICER : CENTRAL GOVT. INDUSTRIAL TRIBUNAL : NEW DELHI

I. D. No. 143|91

In the matter of dispute between :

Shri Laxmi Chand Bansal,
through Assistant Secretary,
P.N.B. Employees Union,
Through Punjab National Bank.

5, Sansad Marg, New Delhi-110001.

Versus

Zonal Manager,
Punjab National Bank,
F-14, Competent House,
Connaught Circus,
New Delhi-110001.

Appearances : Shri V. K. Gupta for the workman.
Shri Rajiv Bhalla for the
Management.

AWARD

The Central Government in the Ministry of Labour vide its Order No. Y-12012/232/91-I.R.B.I. dated 15-11-91 has referred the following industrial dispute to this Tribunal for adjudication :

"Whether the action of the management for stopping four annual increments with cumulative effect to Sh. Laxmi Chand Banerji is justified? If not to what relief the workman is entitled to?"

2. Both the parties had put in their appearance in this case and had requested for settlement. On 19-10-1992 both the representative for the parties were present and they made a joint statement that the matter has since been settled amicably and no dispute award may be passed in this case.

3. In view of the statement of the representative for the parties I am of the opinion that no dispute exists and accordingly a No Dispute Award is passed in this case leaving the parties to bear their own costs.

GANPATI SHARMA, Presiding Officer.

नई दिल्ली, 17 नवम्बर, 1992

का.प्रा. 3050.—औद्योगिक विवाद अधिनियम,
1947 (1947 का 14) की धारा 17 के अन्वय में

केन्द्रीय सरकार उक्त अधिनियम की धारा 33(क) के अंतर्गत भारतीय स्टेट बैंक के प्रबन्ध के विरुद्ध महासचिव, स्टेट बैंक ग्रामसेवकेशन (बंगाल सर्कल) द्वारा दायर एक प्रार्थना पत्र के सबंध में अनुबंध में निविष्ट, केन्द्रीय सरकार औद्योगिक अधिकरण कलकत्ता के पंचाट को प्रकाशित करती है, जो कि केन्द्रीय सरकार को दिनांक 16-11-92 को प्राप्त हुआ था।

[संख्या एन-12015 9/92-आई.आर. (बी-1)]

एस. के. जैन, डेस्क अधिकारी

New Delhi, the 17th November, 1992

S.O. 3050.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Calcutta, as shown in the annexure in respect of a complaint u/s 33A of the said Act filed by General Secretary, State Bank Workmen's Orgn., (Bengal Circle) against the management of State Bank of India which was received by the Central Government on 16-11-1992.

[No. L-12015/9/92-IR(B-1)]

S. K. JAIN, Desk Officer.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL

AT CALCUTTA

Misc. Application No. 13 of 1986

(U/S. 33A of the I.D. Act, 1947)

Arising out of Reference No. 29 of 1985

Parties : Shri Beramala Dass,

General Secretary,

State Bank Workmen's Organisation, (Bengal Circle),

(West Bengal). ... Complainant.

—Vs—

1. The Chief Regional Manager,
State Bank of India (Bengal Circle),
Nagaland House, 11 & 13, Shakespeare Sarani,
Calcutta-700071.
2. The Officer-in-Charge,
General Section,
State Bank of India, Regional Office,
Nagaland House,
11 & 13, Shakespeare Sarani,
Calcutta-700001.

...Opposite Parties.

Present :

Mr. Justice Manash Nath Roy,

... Presiding Officer.

Appearances :

For Complainant ... Mr. Beramala Dass

For Opp. Parties ... Mr. Patyanayak, Asstt. Labour Officer.

State : West Bengal.

Industry : Banking.

AWARD

By this complaint under Section 33A of the Industrial Disputes Act, 1947 (hereinafter referred to as the said Act), the Complainant has alleged that for the reasons as stated hereinafter, the Opposite Parties have violated the provisions of Section 33 of the said Act.

2. It was stated that the Complainant, in terms of Section 33(3) of the said Act, was and is a "Protected Workman", as he is not only the General Secretary of a Registered Trade Union viz. State Bank Workmen's Organisation (Bengal Circle), but he is also one of the Deputy General Secretaries of the All India Bank Employees Federation viz. Indian National Bank Employees Congress, since 1983. As such, it has been claimed that the Opposite parties could not authorisedly take any action against him, in the manner which have been done and the particulars whereof would be given hereinafter, to victimise him, for any reason whatsoever. It has been alleged that such victimising attitude has been taken by the Opposite parties for the purpose of his Trade Union activities and since, the Opposite parties were conscious about his popularity in the field of protecting the terms of service and conditions of employment of the employees of the Opposite parties and more particularly when, they well knew that the Complainant was not a person, who could be coughed down by any threat or any action of the Opposite parties and he was always ready and willing to fight the bonafide cause of the workmen of the Opposite parties.

3. It has been alleged that the Federation as mentioned hereinbefore, is also a duly recognised body of the Indian Bank Association and has entered in the several Bipartite Settlements.

4. It was the case of the complainant that he being the Deputy General Secretary of the Federation as mentioned hereinbefore, was and is lawfully entitled to get special casual leave upto 7 days in a calendar year in terms of paragraph 9.26 of the Dessai Award, which is quoted herein under :—

"9.26. Having regard to the fact that workmen in the banking industry have been organised on an all-India basis and there are all-India organisations to which various unions of workmen employed in banks have been affiliated. I consider it in the interests of the industry that special casual leave should be granted to the office-bearers and Executive Committee members of the organisations hereinafter mentioned in order to enable them to attend meetings and conferences. I accordingly direct that the office bearers and the Executive Committee members of the All India Bank Employees Association, the All India Bank Employees Federation and the All India State Bank of India Staff Federation, who are workmen employed in banks governed by the award should be given by the respective banks special casual leave upto 7 days in a calendar year for the purpose of attending meetings and conferences of their respective organisations. The State Bank of India and some other banks are giving special leave to office bearers and committee members of various unions. It is not intended by this award that these facilities when they are in excess of what is hereby provided should in any way be discontinued or curtailed. In this award, having regard to the limited quantity of evidence available on the subject facilities only of a limited nature have been directed to be provided.

5. It was the case of the complainant that in such Award, the office bearers and the Executive Committee Members of the All India Bank Employees Association, those of the Federation as mentioned above and the All India State Bank Staff Federation, who are governed by the above mentioned Award, should be and really are given special casual leave upto 7 days by the respective Banks in a calendar year, for the purpose of meetings and conferences of the respective organisations. It was further indicated that the Opposite parties, by their circular No. 50 of 1981 dated July 9, 1981, have granted full day leave to the President and Secretary of the above mentioned State Bank of India Staff Federation and thus, they have illegally discriminated the office bearers of abovementioned Federation in such matter, although they are employed in the Bank.

6. It was the case of the complainant that he being the Deputy General Secretary as mentioned above and employed under State Bank of India (Bengal Circle), was and is lawfully entitled to full day's leave or par with the President and Secretary of the State Bank of India Staff Federation and in denying such benefits to him, the Opposite parties have

thus, not only denied the facilities and privileges available to him in terms of Desai Award, but such denial was also under the circular as mentioned above and apart from that, he has been victimised very unfairly and illegally, by marking him forced absent, on the days, when he attended proceedings of the Industrial Disputes before the conciliation Officer and also on the date of hearings before this Tribunal, in Reference No. 29 of 1985.

7. As such, it has been prayed that the complainant was lawfully entitled to refund and repayment of his pay and allowances, which have been deducted from his salary, on account of such forced marking of absence and consequently, other appropriate reliefs.

8. The complainant has claimed, all and every action of the Opposite parties, as taken against him were, because of bias for his Trade Union activities under the banner of I.N.T.U.C. and also for raising industrial disputes in respect of victimisation of office bearers of the I.N.T.U.C. affiliated Trade Union, of which, he is the General Secretary. Such illegal Acts, according to him, were taken amongst others, by way of unlawful transfers, demotions, reduction in wages and also deduction of wages for Trade Union activities.

9. It has further been alleged that the complainant has been victimised by the Opposite parties by way of marking of forced absents, in spite of his daily attending in the General Section of the State Bank of India, by scoring through his signatures in the Attendance Register and that apart, they are wilfully showing him absent, even on the dates, he had attended or attend before the Conciliation Officer or before this Tribunal and in fact, by their letter of October 20, 1986 the Opposite parties have informed him that he did not have either casual leave or privilege leave due to his credit and as such, no leave can be granted to him. Thus, it was the complaint of the complainant that the opposite parties have victimised him, by way of showing him absent, which action was unilateral and should not have been resorted to, during the pendency of the proceeding in Reference No. 29 of 1985 before this Tribunal and for such action, the complainant has lost 90 days leave without salary, it has been alleged that in spite of due intimation of all the facts, the Chief Regional Manager of the Bank, has refused to allow the complainant Special Leave for attending the Tribunal, even on the dates of hearing and most unfortunately, they are issuing letters of warnings and Show Cause Notices to him, for early departure and late attendance, which according to the complainant has occasioned, due to his attendance before this Tribunal or before the conciliation officer from time to time. It was further alleged that the officials of the other Trade Unions, excepting the Union, of which the complainant is the General Secretary, were and are being allowed full day duty relief, but the office bearers of his Union, including the complainant are being victimised and discriminated upon, in the manner as indicated.

10. It was claimed by the complainant that after the Fourth Bipartite Settlement on September 17, 1974 he, as a General Secretary of his Union and the President of the Union, was and is legally entitled to duty relief and special casual leave in terms of Bank's Circular No. 50 of 1981 dated July 9, 1981 and he should be treated as per with the General Secretary and President of the other Union. It was specifically claimed that by virtue of the post and position as he was and still holding, the complainant was entitled to Special Casual Leave, in terms of the circular as mentioned and in not giving him such privilege, but in the alternative, showing him as absent, the Opposite parties have acted unilaterally, illegally and in irregular manner, apart from the manner in victimising him.

11. The Opposite Parties, by their written statement filed on March 6, 1987, took the preliminary objection regarding the maintainability of the complaint and the jurisdiction of this Tribunal to entertain the same, apart from dealing with the case on merits. It was claimed that the present application by the complainant was not maintainable, as the Opposite parties have not contravened any of the provisions of section 33 of the said Act and it was specifically claimed that the complainant was neither a Protected workman nor a workman concerned in Reference No. 29 of 1985.

7905 GI/92-4

12. The allegation of bias of the Opposite parties against the complainant, for his Trade Union activities under the banner of I.N.T.U.C., have been denied. It has been stated that the Opposite parties were and are never biased against the complainant, for raising or sponsoring the dispute concerned in Reference No. 29 of 1985, the bona-fide of that dispute was of course doubted and denied.

13. The Opposite parties have admitted that the complainant is presently posted in the General Section of the State Bank of India Regional Office, Calcutta, but they have denied the other allegations, claiming them to be vague and baseless. They have also denied to have followed any victimising attitude or policy against the complainant, or that they have wilfully showed or showing the complainant absent on the dates, when he attends the conciliation officer or before this Tribunal. It was the case of the Opposite parties that in the matter of leave facilities, the complainant was and is governed by Leave Rules prescribed by the Sastri Award, as modified by Dessai Award and Bipartite Settlements. The issue of the Memorandum dated October 28, 1986, as mentioned in paragraph 5 of the complaint, has been admitted. But, it has been again and categorically denied that the complainant has been victimised, by showing him absent and such action was unlawfully done, during the proceedings as indicated earlier. It has been indicated that excepting the supervising staff of the Bank, all other employees including the complainant are entitled to leave benefits as per Leave Rules, in terms of the Awards and Settlements as mentioned hereinbefore. In any event, it has been denied that the complainant was and is entitled to any special leave, for appearing before Tribunal or before any Court or in any proceeding. It has been categorically denied that he has been victimised for his appearance before the conciliation Officer or before this Tribunal and it has been stated that the complainant, not being a Protected workman, will not be entitled to any benefits, available to such protected workman.

14. The Opposite parties have stated that they were and are not aware, whether the Union, of which the complainant is the General Secretary, is a registered Union or the same is affiliated to I.N.T.U.C. or affiliated to a Trade Union of I.N.B.U.C. It was further stated by the Opposite parties, even his Union is affiliated to I.N.B.U.C., the complainant could not be entitled to the facilities as claimed, as I.N.B.U.C. and the State Bank's Workmen Organisation, are not recognised by the State Bank of India and as such, the office bearers, according to the Opposite parties, will not be entitled to pay duty relief or special casual leave. The claim that the complainant or his Association should be treated at par with the other Trade Unions, have been denied by the Opposite parties and such claim has been stated to be not tenable. It was further pointed out that in terms of Sastri Award, as modified in the manner as indicated earlier, the designated office bearers or a recognised Union, are only entitled to special casual leave and as such, there is no basis for the complainant's claim. It has further stated that the Opposite parties were not aware, whether the complainant was or is the General Secretary of the organisations, including the State Bank of India Workers' Organisation. His claim that he is a Deputy General Secretary of All India Bank Employees Congress or office bearer of I.N.B.U.C., have been denied. The receipt of the letter dated August 28, 1986 only, as mentioned in paragraph 10, has been agreed, but not the contents thereof and the allegations of commission of mal-practice by the Opposite parties, have been denied. It has also been denied that for any act or action of the Opposite parties, the complainant has suffered any loss as alleged. In short, it was claimed and contended that the complainant was not, because of his capacity and in the circumstances as indicated, entitled to any special leave, as prayed for.

15. There was more than one rejoinders filed by the complainant and the facts as indicated herein, in my view would certainly cover the grounds as stated in those rejoinders and as such, I have elected not to refer to them in further and more minute details.

16. It was the evidence of WW-1 Deba Prosad Roy, the General Secretary of the Indian National Bank Employees Congress that the main case meaning thereby Reference No.

29 of 1985 as mentioned hereinbefore, was espoused by him and the State Bank Workers' Organisation is affiliated to his organisation. He has also stated to be aware of the fact that the present dispute was espoused by the State Bank Workmen's Organisation. But he could not say about the membership strength of that Organisation. He agreed that Indian National Bank Employees Congress was not recognised by the State Bank of India. But, he claimed, the check off system is there, which would mean that the management realises the subscriptions of the members and credit them in the account of his organisation. There was suggestion that the agreement Exhibit W-1 was not served, but he denied that fact.

17. WW-2 was the complainant himself. He indicated that he was the Secretary of the State Bank Workers' Organisation (Bengal Circle), which is affiliated to I.N.B.U.C. It was his case that the Opposite parties have not recognised his organisation, while they have recognised others and his case was that although he was not receiving the facilities of protection as mentioned herein, but the other office bearers of other Organisations are getting such benefits. It was alleged that the Opposite parties were not allowing him leave, to appear in the Labour Dispute and other cases, for which the representations as marked collectively Exhibit W-3, were made. He has produced other representations being Exhibits W-4, W-5 and W-6, while on the point. It was further alleged by him that the opposite parties have also refused him leave fare concessions, while the same was granted to other office bearers and on production of Exhibit W-7, he wanted to prove such allegations. He produced Exhibit W-8 viz. Bank's document, which was claimed by the Opposite parties to be not relevant and related to this case. He's claim that Exhibit W-9 was served on the Management, was denied. He alleged that from the records as produced, it will appear that he has been victimised and that he has suffered loss. He agreed that, initially membership strength of his Union, which was started in 1969 was 1200, but now such membership has dwindled down to 300 and the opposite parties have not recognised his organisation. He agreed that circular No. 50 of 1981 as mentioned earlier, relates to Officers' Federation and also to Office Bearers of the State Bank of India.

18. There was another evidence tendered through WW-3 in support of the complainant. He was Rabinendra Nath Chakraborty, Executive Member of the Indian Bank Employees Congress, which is affiliated to I.N.T.U.C. and of which, he is the President. He has deposed, on January 9, 1987, a Notice was served upon him, for attending a meeting of I.N.B.U.C. at Delhi and for such joining, he was given due leave being Exhibit W-12. He agreed that the total strength of employees in Bengal Circle of the opposite parties is more than 20,000 and in that Circle, the organisation as indicated, has got about 300 member. There was a suggestion that for proving such membership, Writ Petition was filed, but he was not aware, whether the same has been dismissed. He denied the suggestion that by Exhibit W-11 he was not asked to attend the meeting as indicated or by Exhibit W-12, he was given Special Leave for such attending. He has said that leave mentioned in Exhibit M-12, was granted for attending the meeting at the negotiation stage.

19. M.W.-1, Sri Nirmal Kumar Ghose, is the Officer-in-Charge of the General Section of the State Bank of India and he has deposed that the complainant, happened to be in his section. It was his evidence that the State Bank Workmen Organisation was not recognised by the Bank and he has deposed that no check off facilities as mentioned by WW-1, is granted to the workman represented by the said Organisation or leave to the Award Staff, is granted as per Bipartite Settlement. He has said that complainant was not victimised for any non-sanction of leave. In cross-examination, nothing much was asked to him, excepting the fact, whether he knew some of the officers as mentioned therein and whether he knew that the present Union is affiliated to I.N.B.U.C., which fact was denied. The other evidence was lead through M.W.-2 Nirmal Kanti Basu, who was working in the Personnel Section of Zonal Office of State Bank of India. He has stated that the complainant's Organisation was not recognised by the Bank and according to him, for recognising a Union, the same is required to have 25 per cent of total staff strength of the workmen, which strength in Bengal Circle, according to him was more than

30,000. He made the statement regarding right to recognition, on the basis of Exhibit M-1. It was his case that since the complainant belonged to an unrecognised Union, he was not a Protected Workman. It was his evidence that even officials of a recognised Union, are not entitled to leave for attending Tribunals or conciliation proceedings under the said Act. He agreed to be a member of the State Bank of India Officers Association, which is also, not a recognised body. He stated that he knew the complainant, to be working in General Section and the witness was in the Personnel Department, which is not in the same floor of the General Section. He agreed that the Circular dated August 7, 1991 Exhibit W-13, was issued by the Bank and he had no direct knowledge about the complainant's organisation or how many Unions of the Bank, can make representations to the Government.

20. It was indicated by Mr. Patyanayak, appearing for the Opposite Parties that the real basis of the complaint in this application by the complainant was that, since he was a "Protected Workman", so instead of taking such prejudicial actions as alleged in this case, he should not only be given all the benefits, which the office bearer of other Unions, holding the same position like him, are receiving, but he should have been, as such, granted leave and other facilities for attending conciliation meetings, proceedings before the Tribunal and for attending other like proceedings, relating to the cause of the employees or at least, the cause of those employees, who are the members of his organisation. It was also his submission that it is true that under Section 33 of the said Act, conditions of service of the employees cannot be changed, except under certain circumstances, during the pendency of a proceedings, save with the express permission in writing of the authority, before whom, the proceedings is proceeding and contended that the case of the complainant will not come under those provisions or in fact, under those provisions as mentioned under Section 33(1) of the said Act. It was indicated by him that the complainant was not or never a "Protected Workmen", under any stretch of imagination and such character as claimed by him, was never recognised or known to the opposite parties. He claimed that the complainant's case was not also covered by the provisions of Section 33(2) of the said Act and if at all, he can maintain his proceedings, if he can bring his case within the purview of the Clauses of Section 33(3) and the explanations thereunder and those provisions, according to Mr. Patyanayak, have not been duly satisfied in this case. It was also submitted by him that the case of the complainant will not also come under Section 33(4) of the said Act, as his case was not duly sponsored and in any event, in view of the membership strength of the said Organisation, his case will not come within the percentage, as indicated and required therein. It was then submitted by him that, since there was no due compliance with the provisions of Rule 61 of the Industrial Disputes Rules, 1957, laying down the primary requisites for establishing the character and case of a "Protected Workman", the complainant cannot claim such right or privilege as claimed. In fact, in this case, there is really paucity of evidence, in respect of the necessary compliance of Rule 61(1) of the said Rules.

21. Mr. Patyanayak then gave stress on the "Code of Discipline in Industry", which has been produced as Exhibit M-1 and more particularly to Annexure-1 thereunder, dealing with criteria for Recognition of Unions, which Exhibit, which is a Rule, has not in fact been denied or disputed by any evidence, although M.W.-1 duly spoke about the same and tendered the document. In fact, he was not even cross-examined on this document. It was then pointed out by Mr. Patyanayak, on a reference to the evidence of WW-1, that on his admission that his organisation has now 300 members only, out of a total strength of about 30,000 employees under the said opposite parties, cannot also claim to have the necessary pre-requisites for recognition as a "Protected Workman". While on the point, he referred to the case of P. H. Kalyani Vs. Messrs. Air France, Calcutta, A.I.R. 1963 S.C. 1756, which has indicated and laid down the pre-requisites for an application of the present nature, under proviso to Section 33(2)(b) of the said Act and also the relevant tests and the positive actions by the employer, to be taken and followed, for recognition of a 'Protected Workman' in West Bengal, and has indicated that there must be some positive action on the part of the employer, in regard

to the recognition of an employee as a 'protected workman', before he could claim such character, for the purpose of Section 53 of the said Act. This case has been referred to and also relied on in subsequent decisions of the Supreme Court of India, but the tests as indicated above, have neither been over-ruled or deferred. Thus, it was claimed that so, the present application on the allegation as mentioned, will not be maintainable, as the complainant cannot claim to be a 'Protected Workman' or regarded as such. Then, a reference was also made to the case of Union of India Vs. Rajasthan Anusarani Limited, 1977 Lab IC 155, which has indicated that the provisions of Rule 66(I) as intra vires, but the provisions relating to recognition as 'Protected Workmen' are not mandatory and if there is any dispute as to recognition of a 'Protected Workman', the same should be referred to the conciliation officer, who is competent to decide the same. Mr. Patyanak further submitted that even the recognised unions do not get any Special Leave, for attending conciliation proceedings. Such submissions were sought to be supported, on reference to the provisions in the Bipartite Settlement.

22. The submissions as made on behalf of the complainant through the written argument, have to some extent been indicated earlier. It was further claimed on behalf of the complainant that the provisions of Sections 33(2)(a) and (b) of the said Act, have been violated in this case and as such, his application would be maintainable. It was submitted further on his behalf that, the total All India strength of the employees of the opposite party would be about 60,000, out of which 30,000 was admitted to be belonging to Bengal Circle and out of that, the complainant's organisation has now a membership strength of 300 only. It was contended that the complainant's organisation has affiliation to an All India Party and according to the submissions as made on his behalf, recognition of his organisation, which was a Registered one, was immaterial in the facts of this case. To support such submissions, reference was made to paragraph 9.26 of the Dessai Award, particulars whereof have been quoted earlier.

23. On searches through the Exhibits, it did not appear that there was any representation made duly or in time, for declaring or claiming the complainant as 'Protected Workman', by his organisation or any demand was made for recognition of the same, even though the said organisation has claimed to be a registered one. But, on the other hand, the complainant has gone or is going on leave, without any reference or intimation to the opposite parties, on the basis of his claim that he has either attended conciliation proceedings or before the Tribunal. This aspect will certainly go a long way against the complainant, as in that event, office discipline cannot be maintained. But, if he has duly applied for being declared and listed as such 'Protected Workman' or that was allowed, then, he would have certainly been in a better position and safe footing. But, no such evidence is available or necessary compliance of the provisions of the said Act and the Rules framed thereunder, have been proved and established, so, in my view, he cannot claim the special benefits as available to a 'Protected Workman'. The decisions as cited above, would also go a long way in favour of the claims of the opposite parties. But, one thing is certain that the complainant is the General Secretary of the State Bank Workmen's Organisation, even though the opposite parties have denied such fact or receipt of such informations. But, it will appear, not only from the evidence, but also from the representations in Exhibit 3 series that he has throughout claimed to be holding such post and had correspondence with all the relevant authorities, including the authorities of the said opposite parties and those facts have not been denied. In their letter dated March 24, 1986, there has certainly been a mention of some order, made by the Hon'ble High Court at Calcutta in Civil Order No. 2645(W) of 1985, over the alleged refusal of Special Leave and duty relief to the office bearers of the concerned Bank. But, no final order in that proceedings, has either been produced or made available or shown. It appears that although the complainant has not as yet been declared or given the status of a 'Protected Workman', he has taken the law in his own hands and with impunity, misusing that position, which he has not as yet received, to the detriment of office discipline, which in my view, should not be allowed or must be sought

to be avoided. I have not before me, the relevant facts and circumstances under which the other officials of the other Unions, as alleged, are being provided with the necessary facilities, as are being claimed by the complainant now, so, I feel, the allegations of discrimination or discriminatory treatment in this case or in so far as he is suffering in that respect, cannot be decided. Furthermore, the question of discrimination as alleged, in my view, cannot also be considered in the admitted absence of those employees or the Unions, who have been claimed to have such advantage and privilege, over the complainant.

24. Here is a case, where the complainant has really and actually raised a dispute in respect of the fact, if he should be treated as a 'Protected Workman' or whether he has the necessary qualifications for such consideration. So, in terms of the recordings as made and the points indicated earlier, his case should have been placed for consideration before the appropriate conciliation proceedings or the conciliation officer. Apart, from the above, the evidence of placement whereof, is absent, it appears that there was or has been no due compliance with the provisions of Section 33(3) or (4) or the explanation as indicated or Rule 61 of the Rules as mentioned earlier. So, the submissions of Mr. Patyanayak, appear to me to be substantial.

25. Thus, this application is not only not maintainable, but is also misconceived and premature at this stage and on facts.

26. In view of the above, the application should be dismissed as above and at this stage.

27. The application is therefore dismissed as above.
Dated, Calcutta.

The 29th October, 1992.

MANASH NATH ROY, Presiding Officer

नई दिल्ली, 18 नवम्बर, 1992

का.आ. 3051-—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दि बैंक आफ राजस्थान लिमिटेड, के प्रबन्धन के संबंध निधियों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में औद्योगिक अधिकरण, जयपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-11-92 को प्राप्त हुआ था।

[संख्या एल-12011/55/89-आई.आर. (बी-1)]

एस. के. जैन, ईस्ट अधिकारी

New Delhi, the 18th November, 1992

S.O. 3051.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Jaipur as shown in the Annexure in the industrial dispute between the employers in relation to the management of The Bank of Rajasthan Limited and their workmen, which was received by the Central Government on 17-11-1992.

[No. L-12011/55/89-IR (B-I)]

S. K. JAIN, Desk Officer

अनुबंध

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर

केस सं. सी.आई.टी. 97/1989

रैफरेंस : भारत सरकार, श्रम मंत्रालय, नई दिल्ली का आदेश

क्रमांक एल-12011/55/89-आई. आर. (बी 1)

दिनांक 3-10-89

श्री आनंदीलाल ब्याडवाल पुत्र श्री रघुनाथ मीणा

—प्राची

बनाम

बी बैंक ऑफ राजस्थान लि., उद्योग भवन, तिलक मार्ग, जयपुर ।

—अप्रार्थी

उपस्थित

माननीय न्यायाधीश श्री शंकर लाल जैन, आर.एच. जे. एस.

प्रार्थी की ओर से : श्री संतोष भटनागर

अप्रार्थी की ओर से : श्री केवल राम

दिनांक अर्वाह 21 सितम्बर 1992

अर्वाह

श्री संतोष भटनागर प्रार्थी की ओर से तथा श्री केवल राम विपक्षी बैंक के प्रतिनिधि की प्रार्थना पत्र पर मिसल आज पेशी में ली गई । श्री आनन्दीलाल स्वयं तथा उनके प्रतिनिधि श्री संतोष भटनागर उपस्थित हैं । श्री कपिल काटजू मय उनके प्रतिनिधि श्री केवलराम बैंक की ओर से उपस्थित हैं । पक्षकारों के प्रतिनिधिगण ने आज एक बाह्यी समझौता पेश किया जिसे तसदीक किया गया । पक्षकारों के प्रतिनिधिगण की प्रार्थना पर इस प्रकरण में समझौते के आधार पर अर्वाह पारित किया जाता है । समझौता अर्वाह का अंग रहेगा ।

अर्वाह की प्रति केन्द्र सरकार को प्रकाशनार्थ नियमानुसार भेजी जावे ।

शंकर लाल जैन, पीठासीन अधिकारी

समक्ष माननीय प्राधिकारी, केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर ।

सी.आई. टी. 97/89

आनन्दी लाल व्याडवाल

बनाम

बैंक आफ राजस्थान, जयपुर ।

अप्रार्थी एवं प्रार्थी के मध्य समझौता

मान्यवर महोदय,

दोनों पक्षों में उद्घोषित वाद में निम्न शर्तों पर समझौता सम्पन्न हुआ :-

- (1) यह कि प्रार्थी आनन्दीलाल व्याडवाल को प्रारम्भ में अस्थाई चपरासी के पद पर नियुक्ति प्रदान अप्रार्थी करेगा । प्रार्थी का नाम मौजूदा जयन्ति चतुर्थ श्रेणी कर्मचारी के पेनल के अन्त में जोड़ा जायेगा । प्रार्थी की जब तक स्थाई नियुक्ति नहीं हो जाती, अप्रार्थी उसे अस्थाई कर्मचारी के रूप में अगह उपलब्धि के अनुसार नियुक्ति देता रहेगा ।

- (2) यह कि अप्रार्थी, प्रार्थी को पुराने वेतन का भुगतान नहीं करेगा एवं इसे पुरानी सेवा के स्थान पर बैंक में चतुर्थ श्रेणी कर्मचारी के नये कर्मकार के नाते माना जावेगा ।

- (3) यह कि पिछले सेवा काल का लाभ प्रार्थी को देय नहीं होगा ।

- (4) यह कि स्थाई नियुक्ति नई नियुक्ति को आधार मानकर होगी ।

- (5) यह कि बैंक की आवश्यकतानुसार प्रार्थी को नियुक्ति बैंक की किसी शाखा कार्यालय में की जावेगी ।

- (6) यह कि वेतन का भुगतान न्यूनतम स्वेत जो कि चतुर्थ श्रेणी कर्मकार के आधार पर बाई पारटेड सेंटिमेंट दिनांक 10-4-89 के पैरा -18(1) के अनुसार वेतन/सी.सी.ए., मकान किराया, मंहगाई भत्ता जो देय बनता है को जोड़कर, दैनिक वेतन निकाल वेतन का भुगतान किया जावेगा ।

उद्घोषित समझौते के आधार पर माननीय न्यायालय से निवेदन है कि अर्वाह पारित कर दिया जावे ।

जयपुर

दिनांक : 17-9-92

प्रार्थी पक्ष

अप्रार्थी पक्ष

नई दिल्ली, 18 नवम्बर, 1992

का.आ. 3052:- औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक आफ राजस्थान के प्रवन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, जयपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-11-92 को प्राप्त हुआ था ।

[[संख्या एल-12012/58/90-आई आर (बी-III)]]

एस. के. जैन, डेस्क अधिकारी

New Delhi, the 18th November, 1992

S.O. 3052.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal, Jaipur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Bank of Rajasthan and their workmen, which was received by the Central Government on 17-11-1992.

[No. L-12012/58/90-IR (B-III)]

S. K. JAIN, Desk Officer

अनर्दध

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर

केस नं. सी. आई.टी. 25/1990

रैफरेंस : भारत सरकार, धर्म मंत्रालय, नई दिल्ली का आदेश क्रमांक एल. 12012/58/90 आई.आर. (बी 3)

दिनांक 18-4-90 ।

श्री योगेन्द्र कुमार खण्डेलवाल पुत्र श्री जी. डो. खण्डेलवाल द्वारा प्लेट नं. ई-220, अर्वावाड़ी, जयपुर ।

—प्रार्थी

बनान

महाप्रबंधक, बैंक ऑफ राजस्थान, सी-3 सरदार पटेल मार्ग, सी-स्क्रीम भजपुर ।

एवं

शाखा प्रबन्धक, सिटी कैम शाखा, बैंक ऑफ राजस्थान, जयपुर ।

—अप्रार्थीगण

उपस्थिति

माननीय न्यायाधीश श्री शंकर लाल जैन, आर.एच. जे.एस.

प्रार्थी की ओर से श्री योगेन्द्र कुमार खण्डेलवाल
अप्रार्थी की ओर से: श्री कपिल काटजू तथा श्री
शलोका फतहपुरिया

दिनांक अवाई : 17-9-1992

अवाई

श्री योगेन्द्र कुमार खण्डेलवाल प्रार्थी स्वयं तथा श्री शलोका फतहपुरिया की प्रार्थना पत्र पर मिसल आज पेशी में ली गई। श्री योगेन्द्र कुमार खण्डेलवाल प्रार्थी स्वयं तथा श्री कपिल काटजूमय उनके प्रतिनिधि श्री शलोका फतहपुरिया विपक्षी बैंक की ओर से उपस्थित हैं। पक्षकारान् के प्रतिनिधियों ने आज एक बोझी समझौता पेश किया, समझौता तस्वीर किया गया। पक्षकारों को प्रार्थना पत्र इस प्रकरण में समझौते के आधार पर अवाई पारित किया जाता है, समझौता अवाई का अंग रहेगा।

अवाई की प्रति केन्द्र सरकार को प्रकाशनायें नियमानुसार भेजी जावे।

शंकर लाल जैन, पीठासीन अधिकारी

समस्त माननीय प्राधिकारी, केन्द्रीय औद्योगिक

न्यायाधिकरण, जयपुर

सी.आई.टी.

योगेन्द्र कुमार खण्डेलवाल बनान बैंक आफ राजस्थान जयपुर ।

अप्रार्थी एवं प्रार्थी के मध्य समझौता
मान्यवर महोदय,

दोनों पक्षों में उपरोक्त वाद में निम्न शर्तों पर समझौता सम्पन्न हुआ :-

1. यह कि प्रार्थी योगेन्द्र कुमार खण्डेलवाल को प्रारम्भ में अस्थायी चपरासी के पद पर नियुक्ति प्रदान अप्रार्थी करेगा। प्रार्थी का नाम मौजूदा चयनित चतुर्थ श्रेणी कर्मचारी के पैनल के अन्त में जोड़ा जाएगा। प्रार्थी को जब तक स्थायी नियुक्ति नहीं हो जाती, अप्रार्थी उसे अस्थायी कर्मचारी के रूप में जगह उपलब्ध के अनुसार नियुक्ति देना रहेगा।

प्रार्थी की स्थायी नियुक्ति के समय वह बैंक में अस्थायी रूप से किये गये कार्य हेतु कोई फायदा (वेतन वृद्धि, अवकाश इत्यादि) नहीं मानेगा।

2. यह कि अप्रार्थी, प्रार्थी को पुराने वेतन का भुगतान नहीं करेगा एवं इसे पुरानी सेवा के स्थान पर बैंक में चतुर्थ श्रेणी कर्मचारी के नये कर्मकार के नाते माना जावेगा।

3. यह कि पिछले सेवा काल का लाभ प्रार्थी को देय नहीं होगा।

4. यह कि स्थायी नियुक्ति नई नियुक्ति को आधार मानकर होगी।

5. यह कि बैंक की आवश्यकतानुसार प्रार्थी की नियुक्ति बैंक की किसी शाखा कार्यालय में की जावेगी।

6. यह कि वेतन का भुगतान न्यूनतम स्तर जो कि चतुर्थ श्रेणी कर्मकार के आधार पर वार्ड परटेड सेटिवमेंट दिनांक 10-4-89 के पैरा 18 (1) के अनुसार वेतन/सी.सी. ए. स्कान किराया मंहगाई भत्ता जो देय बनना है को जोड़कर, दैनिक वेतन निकाल वेतन का भुगतान किया जावेगा।

उपरोक्त समझौते के आधार पर माननीय न्यायालय से निवेदन है कि एवाई पारित कर दिया जावे।

जयपुर :

दिनांक : 17-9-92

प्रार्थी पक्ष

अप्रार्थी पक्ष

नई दिल्ली, 18 नवम्बर, 1992

का.आ. 3053:- औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. जिलिंग लंगलोटा आयरन माईन्स आयरन माईन्स आफ मै. एम. लाल एण्ड कं. के प्रबन्धन के संबंध में नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अतिक्रमण, भुवनेश्वर (उड़ीसा) के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-11-92 को प्राप्त हुआ था।

[संख्या एल-26011/2/80-डी III सी (बी)]

बी.एम. डेविड, डेस्क अधिकारी

New Delhi, the 18th November, 1992

S.O. 3053.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal Bhubaneswar (Orissa) as shown in the Annexure in the industrial Dispute between the employers in relation to the management of M/s. Jiling Longalota Iron Mines, Iron Mines of M/s. S. Lal and Co. Ltd. and their workmen, which was received by the Central Government on 18-11-1992.

[No. L-26011/2/80-D.III (B)]

B. M. DAVID, Desk Officer

ANNEXURE

INDUSTRIAL TRIBUNAL, ORISSA, BHUBANESWAR
PRESENT :

Shi R. K. Dash, LL.B.,
Presiding Officer,
Industrial Tribunal,
Orissa, Bhubaneswar.

Industrial Dispute Case No. 5 of 1980 (Central)

Bhubaneswar, the 31st October, 1992

BETWEEN

The management of M/s. Jilling Longalota Iron Mines of M/s. S. Lal and Co. Ltd., Barbil (subsequently renamed as M/s. Essel Mining and Industries Ltd.).
— First Party-management.

AND

Their workmen, namely,

- (1) Sri Bhuban Naik,
- (2) Sri Kishan Munda and
- (3) Sri Bhudev Bapti

All are represented through North Orissa Workers' Union, P.O. Rourkela-12, Sundergarh —Second Party-workmen.

APPEARANCES :

Sri K. K. Sengupta, Legal Asst.—for the first party-management.

Sri B. S. Pati, General Secretary of the Union—for the second party-workmen.

AWARD

This reference has been made by the Central Government u/s 10(1)(d) of the Industrial Disputes Act, 1947 (14 of 1947) to adjudicate as to whether the denial of employment to S/Shri Bhuban Naik, Kishan Munda and Bhudev Bapti, Drillers by the management of Jilling Longalota Iron Mines of M/s. S. Lal and Co., Barbil is justified.

"Whether denial of employment to S/Shri Bhuban Naik, Kishan Munda and Bhudev Bapti, Drillers by the management of Jilling Longalota Iron Mines of M/s. S. Lal and Company Limited, Barbil is justified? If not, to what relief they are entitled?"

2. This case has undergone a chequered career. As it appears from the record more than a decade has elapsed since the reference was made to adjudicate the dispute but no final order could be passed for which it is the management to be blamed because it moved the Hon'ble High Court twice and the Apex Court once and got the case stalled.

3. For better appreciation of the case, a few facts need be mentioned here :—

All the three aggrieved workmen, it is alleged, were the Drillers under the Management. They were refused employment on 15-7-79 for their raising demands for increase of wages and other facilities. The case of the management on the other hand is that they were not under its employment at any point of time and as such, question of refusal of their employment did not arise at all. In addition to it, it has also urged that the union which is fighting out the present case for the workmen is not the representative of the workers.

Both parties led evidence in support of their case. This Tribunal on consideration of the evidence held by its order dated 7-3-87 that all the three workmen being the employees of the management had been refused work. Despite of such finding the case could not be disposed of finally as the evidence was lacking on the question of gainful employment. A finding on such question was felt necessary to decide the relief to which the three workmen would be entitled to. Aggrieved by the said order the management approached the Hon'ble High court by filing a writ in O.J.C. No. 2834 of 1987. As the total number of cases of similar nature were seven and similar orders were passed as aforesaid by this Tribunal, the Management filed seven writ applications which were analogously heard and disposed of by a common judgment dismissing all the writs. There-

after expeditious hearing was taken-up as their Lordships directed to dispose of the case within the time limit. The management did not appear and take part in the hearing. So, having recorded evidence adduced by the workmen the reference was answered finally and Award passed. The reason for the management's not taking part in the hearing was that it being aggrieved by the decision of the Hon'ble High Court filed Special leave petitions in the Apex Court in Civil Appeals Nos. 240—46 of 1992 which were ultimately withdrawn at the interlocutory stage. However, while allowing withdrawal their Lordships made an observation as under :—

"xx xx xx It is open to the parties to agitate whatever the issues there are in the reference before the appropriate Court."

The management could not avail of the benefit of the aforesaid observation of the Hon'ble Supreme Court as by then the reference had reached its finality. So, against the award passed by this Tribunal within the time limit fixed by the Hon'ble High Court, the management again filed a writ alleging that against the High Court's judgment it moved the Apex Court and prayed the Tribunal to adjourn the hearing till order was passed by the Apex Court but the prayer was not accepted and without giving it an opportunity of hearing evidence from the side of the workmen was taken and award was passed. Their Lordships of the Hon'ble High Court having heard the parties set-aside the award and directed this Tribunal to take-up hearing from the stage it was left and to dispose of the case in accordance with law.

4. In course of hearing it is urged by the management that keeping in view the aforesaid observation of the Apex Court the matter should be re-opened and the parties should be given opportunity to lead evidence on all the issues afresh. I am not prepared to accept such contention because if the observation of the Apex Court is interpreted in the manner as urged by the management it would amount to setting aside the orders of this Tribunal as well as the High Court which infact the Apex Court never intended. From the Apex Court's observation referred to above, what I gather is that their Lordships finding that the case has not reached its finality have given opportunity to the parties to agitate those issues which are yet to be decided. It may be recalled that this Tribunal by order dated 7-3-87 has decided all the issues involved in the case except the case relating to gainful employment. In this view of the matter, my finding would be confined only to the question of gainful employment to give a final touch to the reference.

5. Coming to the question of gainful employment evidence has been led on behalf of the three aggrieved workmen of whom two being examined have stated that since unemployment they searched for a job but could not get. Nothing could be elicited during their cross-examination to show that they have been employed elsewhere permanently. Such being their statement the management ought to have led rebuttal evidence but it did not. In this view of the matter, I hold that all the three workmen since refusal of employment by the management have been sitting idle. A man with little sense can very well realise the plight of the wage earners as well as their family members in such a situation.

6. On a consideration of the evidence, as discussed above, I am of the opinion that these three workmen for no fault of theirs have been denied of employment by the management for which they are entitled to reinstatement with full back wages. The back wages be paid within three months from the date of publication of this Award.

7. The earlier order passed by this Tribunal on 7-3-87 be treated as part of this Award.

Dictated and corrected by me.

R. K. DASH, Presiding Officer

Dated : 31-10-1992

Copy of the order dated 7-3-87 passed by this Tribunal in Industrial Dispute Case No. 5 of 1980 (Central)

ORDER

1. This is a reference under Section 10(1)(d) of the Industrial Disputes Act, 1947 made by the Central Government for adjudication of the dispute vide Order No. L-26011/2/80-D.III (B) dated 25th July, 1980. The schedule of reference is as follows :—

“Whether denial of employment to S/Shri Bhuvan Naik, Kishan Munda and Bhudev Bapti, Drillers by the management of Jiling Longalota Iron Mines of M/s. S. Lal and Company Limited, Barbil is justified? If not, to what relief they are entitled?”

2. The case of the workmen, namely, Bhuvan Naik, Shri Kishan Munda and Bhudev Bapti, Drillers is that they were working under the management since last three years (i.e. from 1977). They demanded revision of their wages rate and for other facilities as applicable to the establishment. The management without considering their grievances denied them work with effect from 15th March, 1979 without any written order. They represented to the higher authority of the management against the illegal action of the Manager. When no action was taken, they raised the present dispute. The management did not attend the conciliation proceedings on the ground that they would not sit with the unrecognised union representatives. The management have signed an agreement on 11-5-1978 with the Keonjhar Mines and Forest Workers' Union that they will pay minimum wage rate of Rs. 8.21 paise per man shift with effect from 15-11-1977 but the management was paying Rs. 4 per man shift and when the workmen demanded higher wages, the management took the aforesaid illegal action against the workmen.

3. The management's stand is that the order of reference made at the instance of the North Orissa Workers Union is not maintainable. This Union is a foreign union and is not a representative union of the Company's workers. The workmen in question were at no point of time in the employment of the management and the question of refusal of their employment by the management at any time does not arise. In the early part of the year 1979 when the North Orissa Workers' Union had raised the dispute with the management, the management vide its letter dated 19th October, 1979 had categorically stated and denied that the workers named by the said union had at no point of time been in their employment. The other allegations made in the written statement by the workmen have been denied.

4. The first question that arises for consideration in this case is whether the three workmen were in employment of the management. The workmen in support of their claim of employment have examined themselves and two other witnesses. The workmen Kishan Munda says that he was working under the first party-management as a Driller for 4 to 5 years. He was getting wages at the rate of Rs. 5 per day. His further evidence is that Sivaji Rao was recording their daily attendance. He has also stated that no appointment letter had been issued to him. He also claims to have received bonus for two years. Finally, he has stated that he was putting his L.T.I. on some papers in token of receipt of his payments. In cross examination it has been elicited from him that one Samal was making weekly payment to him and others. Sivaji Rao he says use to look after the drilling work and one Giridhari Babu was above the rank of Shibaji Rao, i.e. Mate Munshi. The workman Bhuvan Naik has also deposed that he was working as a Driller under the First party for 5 years and was getting a daily wage of Rs. 5. He has also named a number of workers who were working with him. It has been suggested to him that he had entered into a settlement with the management. His signatures on the petition for settlement and the copies thereof has also been got proved by the management. By doing so the management wanted to make out a case that it has settled the dispute with the workman Bhuvan Naik. It is therefore too late in the day for the management to contend that Bhuvan Naik was not under their employment. The third workman Bhudev Bapti has similarly stated that he was doing the drilling work under the management till March, 1979. The fourth witness for the workmen is a teacher under the management. His evidence is

that the three workmen were the drillers of the First party-management and they were disengaged by the first party. In his cross-examination it has been brought out that he resides in the new Colony where the workmen reside. Bhudev Bapti was also residing in the same colony. This witness has seen him going for work. Nothing has been elicited from this witness to discard his evidence. The witness No. 5 who was at one point of time Challan Mate of the first party-management says that these workmen were working under the First party and when they demanded enhancement of their wages as permanent workers, employment was refused to them. It appears from his cross-examination that the place of work of these three workmen was at distance of about 50 years from his place of work. It appears that he has heard the Manager telling the workers not to come for work any further I do not find anything in the evidence of this witness to reject his evidence. The sole witness for the management says that the claim of the three workmen that they were drillers under the first party is false. In cross-examination this witness admits that he can not say as to who were the employees serving under the first party during his tenure of service i.e. from April, 1976 to December, 1979 and from November, 1980 to October, 1984. He has admitted in his cross-examination that the witness No. 4 for the workmen was a private tutor and that the management was paying something on weekly basis for his teaching to the children of the colony. His oral evidence that these workmen were not the employees under the management can not under any circumstances out weigh the evidence of the five witnesses for the workmen who have stated that the three workmen were under the employment of the First Party. On the basis of the oral evidence therefore, one can come to the unhesitating conclusion that the three workmen were under the employment of the management.

5. Regarding the documentary evidence as indicated earlier the alleged agreement between the workman Bhuvan Naik and the management would only be suggestive of the conclusion that he was a workman under the management. As stated by the three workmen the management had not issued any appointment letter to them. It appears that the management's officials were recording their daily attendance. It was up to the management to produce the attendance register for the relevant period to show that they were never the workmen under the management. The witness for the management has stated that their company was maintaining 'B' form register in respect of all the workers of the company and that register would show as to who were the workers under the company and for which period. The management does not choose to prove those documents. The payment voucher if any of the workman during the relevant period must also be in possession of the management. There appears to have no reason why the management fights shy in producing those documents. An adverse inference has to be drawn against the management that had it produced those registers they could have gone against it. On a consideration of the entire material, I am inclined to hold that the three workmen were under the employment of the company. In view of this finding the claim of the workmen that they were refused employment must be accepted as true.

6. The next question is as to the maintainability of the reference. According to the management the three workmen are not the members of the North Orissa Workers Union and as such they could not have raised the dispute on their behalf. It has been elicited in the cross-examination of the workmen Kishan Munda and Bhuvan Naik that they were members of the North Orissa Workers Union. The management has adduced no evidence to show that these workers were not the members of the North Orissa Workers Union. It is not the case of the management that the North Orissa Workers Union is not a registered union. A registered union can certainly raise the dispute on behalf of its members. The question whether the management had recognised this union is not relevant for the purpose of raising the dispute. That apart the dispute is relating to the refusal of employment to the workmen and the workmen were also competent to raise their individual dispute. In fact in the body of the reference one can find that there is an industrial dispute between the employer and their workmen. Thus, whether the dispute was espoused by the North Orissa Worker's Union or individually by the workman, the reference is maintainable.

7. The last and the final question is whether this denial of employment to the workmen was justified or not. It is neither the case of the management nor there is any evidence to suggest that the denial of employment to the workmen had any justification. To sum-up, I would hold that the denial of employment to the three workmen is not justified.

8. On the question of the relief that may be available to the three workmen. It may be stated that neither parties have either pleaded or adduced any evidence as to the gainful employment of the three workmen during the period in question. Before therefore finally answering the reference I would call upon both the parties to adduce evidence on the question of gainful employment. Inform both the parties.

R. N. PANDA, Presiding Officer

नई दिल्ली, 18 नवम्बर, 1992

का.ग्रा. 3054:— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार तमिलनाडु मिनेरल्स लिमिटेड मद्रास-5 के प्रबन्धन के संवद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, तमिलनाडु के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-11-92 को प्राप्त हुआ था।

[संख्या एन-29011/16/90-आई आर (मिस.)]

बी. एम. डेविड, डेस्क अधिकारी

New Delhi, the 18th November, 1992

S.O. 3054.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal Tamilnadu as shown in the Annexure in the industrial dispute between the employers in relation to the management of Tamilnadu Minerals Ltd. Madras-5 and their workmen, which was received by the Central Government on 18-11-1992.

[No. L-29011/16/90-IR (Misc.)]

B. M. DAVID, Desk Officer

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL, TAMIL NADU MADRAS

Wednesday, the 21st day of October, 1992

PRESENT :

Thiru S Gopalaswamy, B.Sc., B.L., Industrial Tribunal,
Industrial Dispute No. 66 of 1990

(In the matter of the dispute for adjudication under Section 10(1)(d) of the Industrial Disputes Act, 1947 between the workmen and the management of M/s. Tamil Nadu Minerals Limited, Madras-5)

BETWEEN

The workmen represented by :

1. The General Secretary,
Mettur General Workers' Union,
C/o Centre of Indian Trade Unions,
13, Mosque Street, Madras 600005.
2. The President,
Dharamapuri Mayatta Kanima Desiya Thozhilalur,
Sangam, 70, Baij Street, Ponnagaram,
Dharamapuri-636810.

AND

The Chairman-cum-Managing Director,
M/s. Tamil Nadu Minerals Limited,
31, Kamarajar Salai, "TUAD HOUSE"
Chepauk, Madras-600005,

REFERENCE :

Order No. L-29011/16/90-IR (Misc.) dated 3-8-1990 of Ministry of Labour, Government of India, New Delhi

This dispute coming on this day for final disposal in the presence of Thiru D. Horiparanthaman, Advocate for Union No. 1 and Thiru P.K.C. Menon, Authorised Representative for Union No. 2 upon perusing the reference, claim and counter statements and other connected papers on record and the management being absent, this Tribunal passed the following :

AWARD

This dispute between the workmen and the management of Tamil Nadu Minerals Limited, Madras-5 arises out of a reference under Section 10(1)(d) of the Industrial Disputes Act, 1947 by the Government of India, in the Order No. L-29011/16/90-IR (Misc.), dated 3-8-1990 of the Ministry of Labour, for adjudication of the following issues :

"Whether the action of the management of M/s. Tamil Nadu Minerals Ltd., Madras in disengaging the Chislemen is justified. If not, to what relief are the workmen entitled ?"

(2) Parties were served with summons.

(3) There are two Unions in this dispute. They are :

(1) Mettur General Workers' Union, Madras-5 and (2) Dharamapuri Mayatta Kanima Desiya Thozhilalur Sangam, Dharamapuri. Both Unions have filed their respective claim statements praying to direct the management to reinstate Chislemen with back wages, continuity of service with other attendant benefits and make them permanent.

(4) The management of Tamil Nadu Minerals Limited, Madras-5 has filed their counter statement denying the allegations made in the claim statement.

(5) In spite of several adjournments, the management was not ready to go on with this case. Hence on 16-9-1992 Thiru K. Vijayayan, General Secretary of Union No. 1 was examined as WW-1 in Chief. The management was absent on that day and WW-1 was not cross-examined by the management. Hence the case was adjourned to 22-9-1992 for cross-examination of WW-1. On that day also, the management was absent.

(6) Today also when the dispute was called, the management was absent. No representation was made on behalf of the management. Hence the management is set ex parte. The evidence let in by WW-1 prove the claim of the workmen.

(7) Hence, an award is passed directing the management to reinstate Chislemen with back wages, continuity of service with other attendant benefits and make them permanent workers as prayed for. No costs.

Dated, this 21st day of October, 1992.

M. GOPALASWAMY, Industrial Tribunal

नई दिल्ली, 19 नवम्बर, 1992

का.ग्रा. 3055:— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार श्री. हुट्टी गोल्ड माईन्स कं. लिमिटेड के प्रबन्धन के संवद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, बंगलूर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-11-92 को प्राप्त हुआ था।

[संख्या एन-43012/18/88- डी III (बी)]

बी.एम. डेविड, डेस्क अधिकारी

New Delhi, the 19th November, 1992

S.O. 3055.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Bangalore as shown in the Annexure in the industrial dispute between the employers in relation to the management of M/s. Hutti Gold Mines Co. Ltd. and their workmen, which was received by the Central Government 18-11-1992.

[No. L-43012/18/88-D.II (B)]

B. M. DAVID, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL

TRIBUNAL-CUM-LABOUR COURT BANGALORE

Central Reference No. 18/89

Dated this 30th day of October, 1992

PRESENT :

Shri M. D. Vishwanath, B.Sc., B.L., Presiding Officer.

I PARTY :

Shri Shivadooth,
Dr. No. M 1,
Gandhi Maidan,
Hutti P.O.,
Raichur District,
Pin-584115.

V/s.

II PARTY :

The General Manager,
M/s. Hutti Gold Mines Ltd.,
Hutti PO,
Raichur-584115.

AWARD

In this reference made by the Hon'ble Central Government by its Order No. L-43012/18/88-D.II (B) dated 30-1-1989 the point for adjudication as per schedule is :

"Whether the resignation letter Dated 24-6-1988 of Shri Shivadooth, Ex. Operator, M/s. Hutti Gold Mines Co., Ltd., Hutti, Raichur Distt. was voluntary or obtained by force by the Management of M/s. Hutti Gold Mines Co. Ltd., Hutti. In case it was obtained by force, what relief the workman is entitled to ?"

2. In the claim statement it is contended :—

The I party workman was employed with the II party in 1972. On 20-6-88 the I party was asked to process the melting gold. The I party workman refused to do this work since it was not his duty. His duty was only to prepare the pots in which gold was melted. While processing the gold, the pot in which gold was melted developed a hole and the contents of the pot started dripping down. All this happened in the presence of six officers and security men. After the I party workman completed his duty, he was searched by the security personnel and relieved to go home.

3. On 21-6-88 the I party was not feeling well. He went to the Doctor at Hutti Gold Mines hospital. The Doctor advised him rest. The I party was granted sick leave from 22-6-88 to 23-6-88. On 24-6-88 when the I party went to duty, the Personnel Manager of the II party called the I party workman and forced him to sign the resignation letter, with the threat that he would be dismissed from service if he did not do so. The I party stated that he had not committed any misconduct and that if he resign he would be on the street. Though the I party was not prepared to resign, the Personnel Manager made him to sign the resignation letter by force and coercion. The resignation letter was not voluntary.

2905 GI/92—5

4. The I party workman gave a representation on 25-6-88 to the General Manager that the resignation was obtained by force and so he wants to withdraw the resignation. The I party gave also a complaint to police on 25-6-88 that the signature was obtained by force. The resignation which was obtained under the circumstances stated above, was accepted by that letter itself. The acceptance of the alleged resignation is illegal. Therefore award has to be passed setting aside the resignation and directing the II party to reinstate the I party with full back wages, continuity of service and other benefits.

5. The II party has stated in its counter statement—

On 20-6-88, the I party was on duty and he worked. Since it was the duty of the I party to light and operate the furnace, he was fully involved in the cupellation process which was his normal duty. Although the work of the I party workman was subject to supervision, the I party workman cannot escape his responsibilities for the wrongs done by him. The contents of the pot being molten gold, the I party should have informed the higher officials on that very day when the pot started dripping down. I party with an evil motive has failed to report it, allowing the pot to drip down in the furnace itself. When the gold was inside the furnace, the I party workman, as if nothing had happened, submitted himself for search and thus allowed the gold spillage to continue to remain in the furnace itself with the foul idea of taking out the gold on the subsequent day when the gold cools down. Since the I party workman himself was the man responsible for cleaning the furnace, it was very easy for the I party workman to carry out his plan of committing theft of gold particularly when on the following day there would normally be no supervision nor security man around.

6. The resignation given by the I party workman was voluntary. It is false that the Personnel Manager threatened the I party workman with dismissal, if he did not resign. The resignation was accepted since it was voluntary. The allegations to the contrary are false. On 23-6-88 there was labour unrest involving about 4,500 workmen. These workmen were agitating over the loss of gold in the cupellation process. The refinery officer who was incharge of cupellation was dismissed on the spot. Nothing all this and realising the seriousness of his acts and apprehending the danger at the wrath of the crowd of 4,500 workmen, the I party volunteered to submit his resignation to his Head of the Department and go away from the scene. The I party workman submitted resignation voluntarily. Since his resignation had already been accepted, there was no question of permitting the I party workman to withdraw his resignation. It is the General Manager, on the recommendation of the head of department, who accepted the resignation and not the Personnel Manager. The resignation was voluntary and it was attested. The I party submitted resignation voluntarily to save himself from grave danger. The II party has not misled the I party workman. The reference has to be rejected.

7. On behalf of the II party MW-1 R. Krishnan, Asst. General Manager and MW-2 Rajkumar, Personnel Manager have been examined. On behalf of the I party workman he has got himself examined as WW-1. There is another witness WW-2 Mohd. Ali on his behalf.

8. The point for consideration is whether the resignation letter Ex. M-1 dated 24-6-88 given by the I party workman was voluntary as contended by the II party or was obtained by force by the II party as contended by the I party workman.

9. The case of the I party workman is that the Personnel Manager of the II party forced him to sign the resignation letter threatening that he (I party workman) would be dismissed from service if he did not do so. The I party workman has stated in his evidence the stand taken by him in the claim statement.

10. MW-1 R. Krishnan who was working as the Asst. General Manager of the II party at the relevant point of time has stated in his evidence that on 24-6-88 he went to

the Administrative Officer and made enquiry and learnt that on the previous day about 4500 workmen had gathered the office and were demanding the resignation or dismissal of one Bhangi and I party workman Shivadooth. MW-1 has stated in his evidence that he was told that the I party workman wanted to see him and so the I party workman came to see him and told him (MW-1) that he (I party workman) wanted to resign since he felt that he would not be safe if he continued in working. MW-1 has stated in his evidence that I party workman stated that he did not want his name to be spoiled.

11. In para 26 of his deposition, MW-1 has stated that the I party workman was very perturbed and there were tears in his eyes. MW-1 has stated in his evidence that he held I party workman to give his resignation in writing. MW-1 in his evidence has stated that I party workman told him that he was too much upset to write the resignation letter and so I party called one Mallikarjun (clerk in the central time office) and told Mallikarjun to write his resignation letter. I party workman told, says MW-1, Mallikarjun, to write that he wanted to resign for his personal reasons. Thereupon Mallikarjun wrote it (Ex. M-1) and then Mallikarjun handed over it to I party workman.

12. I have extracted above the evidence of MW-1 in so far as it is relevant to show whether the resignation letter Ex. M-1 tendered by the I party workman was voluntary or not voluntary.

13. According to Webster's Third New International Dictionary Voluntary means "Produced in or by an act of choice", "Performed, made, or given of one's own free will."

14. Even according to MW-1 the I party workman at the time of giving his resignation letter was very perturbed and there were tears in his eyes and he was not in a position to write the resignation letter since he was too much upset to write it. The reason given by the I party workman to tender his resignation was that he felt that he would not be safe if he continued in service. The resignation letter of I party workman who was perturbed, who was weeping, who was very much upset, and who was not in a position to write the resignation letter cannot be said to have been given by him of his own free will or by an act of his personal choice. In my opinion, MW-1 has proved the case of the I party workman.

15. It is argued by the Learned counsel for the II party that the reason or provocation for the I party workman's resignation letter was not from the side of the II party and there was no force on I party by the management and, if out of fear somebody I party workman tendered his resignation letter, management is not responsible. I agree. The fact that II party was not responsible for the resignation of the I party workman does not mean that the resignation of I party workman was voluntary. The II party has stated in the counter statement that the I party workman submitted his resignation to save himself from grave danger. A man who wants to save himself from grave danger and gives resignation letter cannot be said to have given the resignation voluntarily.

16. For the aforesaid reasons, I am of opinion, the resignation letter Ex. M-1 dated 24-6-88 of the I party workman Shivadooth was no voluntary, though not obtained by force by the II party management. This covers my finding on the issue as per the schedule to reference.

17. The I party workman has stated in the claim statement that he had an unblemished record. The II party has stated in the counter statement in para 2 that he was suspended in 1973. He was once involved in strike in 1976 and he was exonerated on his undertaking of good behaviour. The II party has stated in the counter statement that on 20-6-88 the pot containing molten gold was dripping and the I party with an evil motive failed to report it. The motive of I party was to take that gold on the subsequent day when the person of I party would not be searched. It is obvious that the II party has not conducted any enquiry since the I party tendered resignation letter Ex. M-1. Though it is not proper to express any opinion on the said incident, taking into consideration the stand of the II party I pass appropriate order. This is a fit case in which back wages

should not be allowed. This award shall not come in the way of the II party holding an enquiry, if permissible in law, into the alleged misconduct of I party workman on 20-6-88, failing to report the dripping down of gold from the pot.

18. All other documents and evidence not referred to by me are not relevant. In any case they do not alter the conclusions reached by me above. I have touched the salient points.

ORDER

The resignation letter Ex. M-1 is declared invalid.

The II party shall forthwith reinstate the I party workman with continuity of service. No back wages.

Reference accepted and award passed as stated herein.

Submit to Government.

(Dictated to Stenographer, typed by him, corrected and signed by me on this 30th day of October, 1992).

M. B. VISHWANATH, Presiding Officer

नई दिल्ली, 18 नवम्बर, 1992

फा.आ. 3056 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्वय में, केन्द्रीय सरकार मै. जिलिंग लंगलोटा आयरन माइनज, मै. एम. लाय एण्ड कं. के प्रबन्धन के संबंध में नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निहित औद्योगिक विवाद में औद्योगिक अधिकरण, उड़ीसा के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-11-92 को प्राप्त हुआ था।

[संख्या एल-26011/4/80-डी III(बी)]

बी.एम. डेविड, डेस्क अधिकारी

New Delhi, the 18th November, 1992

S.O. 3056.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal Orissa, Bhubaneswar, as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Jilling Longalota Iron Mines of M/s. S. Lal & Co. Ltd., and their workmen, which was received by the Central Government on the 18-11-92.

[No. L-26011/4/80-D-III(B)]

B. M. DAVID, Desk Officer

ANNEXURE

INDUSTRIAL TRIBUNAL, ORISSA, BHUBANESWAR
PRESENT :

Sri R. K. Dash, LL. B.,
Presiding Officer
Industrial Tribunal,
Orissa, Bhubaneswar.

Industrial Dispute case No. 6 of 1980 (Central)
Dated, Bhubaneswar, the 28th October, 1992

BETWEEN :

The management of M/s. Jilling Longalota Iron Mines
of M/s. S. Lal & Co. Ltd., Barbil (subsequently
renamed as M/s. Essel Mining & Industries Ltd.).

...First Party-management.

AND

Their workmen Sri Mohabir Tanty & Mohan Tanty represented through North Orissa Workers Union, P.O. Roumekela-12, Dist : Sundergarh.

..Second Party-workmen.

APPEARANCES :

Sri K. K. Sengupta, Legal Asst.—For the first Party-management.

Sri B. S. Pati, General Secy.,—For the second party-workman.

AWARD

This reference has been made by the Central Government u/s. 10(1)(d) of the Industrial Disputes Act, 1947 (14 of 1947) to adjudicate as to whether the denial of employment to Sri Mohabir Tanty and Mohan Tanty, Ore Checkers by the management of Jiling Longalota Iron Mines of M/s. S. Lal & Co., Barbil is justified.

2. This case has undergone a chequered career. Though more than a decade has elapsed since the reference was made but no final order could be passed because of the reason that the Management moved the Hon'ble High Court twice and the Apex Court once. For better appreciation of the case, a few facts need be mentioned here :—

The two aggrieved workmen, it is alleged, were the Ore Checkers under the Management. They were refused employment on 3-10-79 for their raising demands for increase of wages and other facilities. The case of the management on the other hand is that they were not under its employment at any point of time and as such, question of refusal of their employment did not arise at all. In addition to it, it has also urged that the union which is fighting out the present case for the workmen is not the representative of the workers.

Both parties led evidence in support of their case. This Tribunal on consideration of the evidence held by its order dated 7-3-87 that these two workmen being the employees of the management had been refused work. Despite of such finding the case could not be disposed of finally as the evidence was lacking on the question of gainful employment. A finding on such question was felt necessary to decide the relief to which the two workmen would be entitled to. Aggrieved by the said order the management approached the Hon'ble High Court by filing a writ in O.J.C. No. 2833 of 1987. As the total number of cases of similar nature were seven and similar orders were passed as aforesaid by this Tribunal, the Management filed seven writ applications which were analogously heard and disposed of by a common judgment dismissing all the writs. Thereafter expeditious hearing was taken-up as their Lordships directed to dispose of the case within the time limit. The management did not appear and take part in the hearing. So, having recorded evidence adduced by the workmen the reference was answered finally and Award passed. The reason for the management's not taking part in the hearing was that it being aggrieved by the decision of the Hon'ble High Court filed Special leave petitions in the Apex Court in Civil Appeals Nos. 240-46 of 1992 which were ultimately withdrawn at the interlocutory stage. However, while allowing withdrawal their Lordships made an observation as under :—

"xx xx xx It is open to the parties to agitate whatever the issues there are in the reference before the appropriate Court."

The management could not avail of the benefit of the aforesaid observation of the Hon'ble Supreme Court as by then the reference had reached its finality. So, against

the award passed by this Tribunal within the time limit fixed by the Hon'ble High Court, the management again filed a writ alleging that against the High Court's judgment it moved the Apex Court and prayed the Tribunal to adjourn the hearing till order was passed by the Apex Court but the prayer was not accepted and without giving it an opportunity of hearing evidence from the side of the workmen was taken and award was passed. Their Lordships of the Hon'ble High Court having heard the parties set aside the award and directed this Tribunal to take-up hearing from the stage it was left and to dispose of the case in accordance with law.

3. In course of hearing it is urged by the management that keeping in view the aforesaid observation of the Apex Court the matter should be re-opened and the parties should be given opportunity to lead evidence on all the issues afresh. I am not prepared to accept such contention because if the observation of the Apex Court is interpreted in the manner as urged by the management it would amount to setting aside the orders of this Tribunal as well as the High Court which in fact the Apex Court never intended. From the Apex Court's observation referred to above, what I gather is that their Lordships finding that the case has not reached its finality have given opportunity to the parties to agitate those issues which are yet to be decided. It may be recalled that this Tribunal by order dated 7-3-87 has decided all the issues involved in the case except the one relating to gainful employment. In this view of the matter, my finding would be confined only to the question of gainful of employment to give a final touch to the reference.

4. Coming to the aforesaid question of gainful employment, evidence has been led on behalf of the two aggrieved workmen of whom one being examined as W. W. No. 4 has in evidence stated that both of them after being denied of employment have remained unemployed since 3-10-79. However, during cross-examination he would admit that his brother Mohabir Tanty, one of the aggrieved workmen having been employed in the meantime as a Dresser in the Ghatgaon Dispensary has submitted his resignation to the management by registered post.

5. On an appraisal of the evidence as discussed above, I am of the opinion that both the workman for no fault of theirs have been denied/refused of employment for which they are entitled to reinstatement with full back wages but due to the supervening circumstance the workman Mohabir Tanty is not entitled to reinstatement and full back wages except for the period he remained unemployed. In so far as the other workman Sri Mohan Tanty is concerned, he be reinstated in service and paid full back wages. Payment of back wages be made within three months from the date of publication of this Award.

6. The earlier order passed by this Tribunal on 7-3-87 be treated as part of this Award. Dictated & corrected by me.

Sd/- R. K. Dash
Presiding Officer,
Industrial Tribunal.
Dt. 28-10-92.

Sd/- R. K. Dash
Presiding Officer,
Industrial Tribunal
Dt. 28-10-92.

Copy of the order dated 7-3-87 passed by the Presiding Officer, Industrial Tribunal, Orissa, Bhubaneswar in Industrial Dispute Case No. 6 of 1980 (Central).

ORDER

1. This is a reference under Section 10(1) (d) of the Industrial Disputes Act, 1947 made by the Central Government for adjudication of the dispute vide order No. L-26011/

4/80-D.III.B dated 25th July, 1980. The schedule of reference is as follows :—

“Whether denial of employment to S/Shri Mohabir Tanti and Mohan Tanti, Ore Checkers by the Management of Jilling Longaloia Iron Mines of M/s. S. Lal & Co. Ltd., Barbil is justified?”

2. The workman namely Mohabir Tanti and Mohan Tanti claim to have been the Ore Checkers under the Management. Their case is that they were working under the Management as such since the year 1974. They demanded revision of their wage rate and for other facilities as applicable to the establishment. The Management without considering their grievances denied them work with effect from 3-10-1979. They represented the higher authority of the Management against the illegal action of the Manager. When no action was taken, they raised the present dispute. The Management did not attend the conciliation proceedings on the ground that they would not sit with the unrecognised union representatives. The Labour Enforcement Officer (Central), Barbil enquired into the employment and wage rates of the workmen on 2-12-1979 in presence of the witnesses and found that they were working for 4½ years and were getting Rs. 4/- per day. The copy of the enquiry report has been enclosed as annexure-1.

3. The Management's stand is that the order of reference made at the instance of the North Orissa Workers' Union is not maintainable. This Union is a foreign Union and is not a representative Union of the Company's Workers. The workmen in question were at no point of time in the employment of the Management and the question of refusal of their employment by the Management at any time does not arise. In the early part of the year 1979 when the North Orissa Worker's Union had raised the dispute with the Management, the Management vide its letter dated 19th October, 1979 had categorically stated and denied that the workers named by the said Union had at no point of time been in their employment. The other allegations made in the written statement by the workmen have been denied.

4. The first question that arises for consideration in this case is whether the two workmen were under the employment of the Management. In this connection we have the evidence of the two workmen and one Labour Enforcement Officer for the workmen and the evidence of the Ex-Manager for the Management. The workman Mahabir Tanti says that he was working as Ore-checker of the Management with effect from 19-12-1974 on a daily wage of Rs. 4. His duty was to see whether or not the packing was done properly by the workers. He also used to make a note of it in the note book supplied by the First Party-Management. He has further stated the Mines Manager and the Mines Foremen used to check the entries in the note book, at interval. On the basis of the entries in the note book, entries were made in the measurement book. He has proved the signature of the Asst. Mines Manager Shri Bhattachariya vide Exts. 1/1 and 1/2. He says that he was removed from service on 3-10-1979. It has been brought out in his cross-examination that no appointment letter was issued to him. Mohan Tanti (the second workman) says that he was also working as Ore-checker with effect from 10-5-1974 on a daily wage of Rs. 4. He also used to check the packing box of iron ore. This witness claims to have made note of his checking in the note book (Ext. 2). According to him also the note books were also checked by the Officer S. K. Bhattacharya, Asst. Manager. He proves the signature of the Officer as Ext. 2/1 and 2/2. His further evidence is that when he demanded wages at the enhanced rate, the employment was refused to him on 3-10-1979. This witness has also proved the Challan book supplied to him by the Company where he had himself issued the challan vide Ext. 3. Nothing substantial has been brought out in the cross-examination of this workman to discredit his evidence that he was a workman under the Management. The Labour Enforcement Officer says that on receiving a complaint from the North Orissa Workers Union he enquired into the complaint on 2-12-1979 in the presence of the workmen and the Manager. He has proved the paper (Ext. 4) which he called as a report. Ext. 4 would show that the Labour Enforcement Officer took the statement of the workman Mohabir Tanti and the two

witnesses namely Madhu Munda and one Manmohan Singh, the attendance clerk. This document does not as such prove that Mahabir Tanti was a workman under the Management. In view of the evidence of the two workmen and the two note books as also the challan book it was for the Management to adduce sufficient rebuttal evidence to suggest that the two workmen never worked under the Management. One ex-Manager of the Company has denied the issue of Exts. 1, 2 and 3 by the Company. From the very entries made in Exts. 1, 2 and 3 this mere denial by the ex-manager that they were never issued by the Company is not acceptable. This witness in his cross-examination has admitted that 'B' register maintained by the Company would show as to who were its workers. That register has not been produced. No other register or record is also produced by the Company to negative the claim of the workmen that they were under the employment of the Company. On a consideration of both oral and documentary evidence adduced by the parties I am inclined to hold that the two workmen were under the employment of the Company.

5. Both the workmen have stated that they were refused employment by the Company. It is the case of the Management that the question of refusal of employment does not arise in as much as the workmen were never under its employment. Having held that the workmen were under the employment of the Company it must be held that the Company refused employment as alleged.

6. The next question is about the maintainability of the reference. The case of the Management is that the North Orissa Workers Union is a foreign Union and is not the representative of the workmen. It is also said to be a Union not recognised by the Company. On behalf of the workmen no evidence has been adduced to show that these two workmen were also members of the North Orissa Workers Union. It can not therefore be said that the Union could have espoused their cause. But the fact remains that this is a dispute as mentioned in the reference between the employer and the workmen. As provided in Section 2(a) of the Industrial Disputes Act, the workmen in case of denial of employment could raise their dispute individually and as such the dispute can not be said to be not an industrial dispute. The reference is therefore maintainable.

7. While considering the question of relief it is seen that the parties have neither pleaded nor adduced any evidence as to the gainful employment of the workmen during the period in question. I would, therefore, before finally disposing the matter call upon the parties to adduce evidence on the question of gainful employment. Inform both the parties.

R. N. PANDA, Presiding Officer.

नई दिल्ली, 19 नवम्बर, 1992

का.ग्रा. 3057 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार उत्तर रेलवे, जोधपुर के प्रबन्धन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नई दिल्ली के पचाड को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-11-92 को प्राप्त हुआ था।

[सं. एन-41012/118/89-प्राई.आर. (जी.यू.)]

के.बी.बी. उपाधी, डैस्क अधिकारी

New Delhi, the 19th November, 1992

S.O. 3057.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, New Delhi as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Northern Railway, Jodhpur and their work-

men, which was received by the Central Government on 19th November, 1992.

[No. L-41012/118/89-IR(DU)]

K. V. B. UNNY, Desk Officer

ANNEXURE

BEFORE SHRI GANPATI SHARMA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, NEW DELHI

I.D. No. 104/90

In the matter of dispute between :

Harish s/o Shri Nathu Ram, Labourer,
through Secretary,
Akshil Bhartiya Rail Safai Karamchari Sangh,
1-B-4, Madhuban Rosni, Jodhpur (Raj.)-342001.

Versus

Divisional Railway Manager,
Northern Railway,
Jodhpur-342001.

APPEARANCES :

Shri Anis Ahmed—for the management.
None—for the workman.

AWARD

The Central Government in the Ministry of Labour vide its Order No. L-41012/110/89-I.R.(D.U.) dated 10th September, 1990 has referred the following industrial dispute to this Tribunal for adjudication :

"Whether the action of the management of Northern Railway in terminating the services of Shri Harish s/o Shri Nathu Ram, Labourer w.e.f. 4th October, 1986 is justified? If not, to what relief is the worker concerned entitled and from what date?"

2. The workman is not appearing in this case since 27th of March, 1992 and thereafter five other adjournments have been made and registered notice has been sent which was duly served for 4th August, 1992. He has not appeared since then. Representative for the management states that he has been told that some settlement has been arrived at. Since the workman is not attending the court inspite of registered notice having been duly served on him no ground to further adjourn the case is made out. It appears that no dispute exist at present and I, therefore, pass a No Dispute Award in this case. Parties are left to bear their own costs.

GANPATI SHARMA, Presiding Officer

6th November, 1992.

नई दिल्ली, 19 नवम्बर, 1992

का.प्रा. 3058 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी.पी. डब्ल्यू. डी. नई दिल्ली के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद से केन्द्रीय सरकार औद्योगिक अधिकरण, नई दिल्ली के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-1-192 को प्राप्त हुआ था।

[सं. एल-42012/282/90-आई.आर. (डी.यू.)]

के.वी.बी. उण्णी, डेस्क अधिकारी

New Delhi, the 19th November, 1992

S.O. 3058.—IN pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, New Delhi as shown in the Annexure, in the industrial dispute between the employers in relation to the management of C.P.W.D., New Delhi and their workmen, which was received by the Central Government on 19th November, 1992.

[No. L-42012/282/90-IR(DU)]

K. V. B. UNNY, Desk Officer

ANNEXURE

BEFORE SHRI GANPATI SHARMA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, NEW DELHI

I.D. No. 105/91

In the matter of Dispute between :

Shri Harish,
through Delhi Labour Union,
Aggarwal Bhawan, G. T. Road,
Tis Hazari, Delhi.

Versus

Chief Engineer,
CPWD, Nirman Bhawan,
New Delhi-110001.

APPEARANCES :

None.

AWARD

The Central Government in the Ministry of Labour vide its Order No. L-42012/282/90-I.R.(D.U.)/D-2(B) dated 11th September, 1991 has referred the following industrial dispute to this Tribunal for adjudication :

"Whether the action of the management of C.P.W.D. in terminating the services of Shri Harish w.e.f. October, 1985 is justified? If not, what relief the workman concerned is entitled to?"

2. This case was fixed for filing of the claim by the workman but no claim was filed. Many adjournments were allowed to the representative for the workman to file the claim but on no date it was filed. Representative for the workman was not present today nor the workman. I, therefore, of the view that there is no dispute pending between the parties and I, therefore, pass No Dispute Award in this case. Parties are left to bear their own costs.

GANPATI SHARMA, Presiding Officer

16th October, 1992.

नई दिल्ली, 23 नवम्बर, 1992

का.प्रा. 3059 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी. बी. एम. बी. (कोटा पावर हाउस) के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद से केन्द्रीय सरकार औद्योगिक अधिकरण, चंडीगढ़ के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-11-92 को प्राप्त हुआ था।

[सं. एल-42012/2/86-डी-2 (बी) (पार्टे)]

के.वी.बी. उण्णी, डेस्क अधिकारी

New Delhi, the 23rd November, 1992

S.O. 3059.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Chandigarh as shown in the Annexure, in the industrial dispute between the employers in relation to the management of B.B.M.E. (Kotta Power House) and their workmen, which was received by the Central Government on 20-11-92.

[No. L-42012/2/86-D.II(B)(Pt.)]

K. V. B. UNNY, Desk Officer

ANNEXURE

BEFORE SHRI ARVIND KUMAR, PRESIDING OFFICER,
CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT, CHANDIGARH

Case No. I.D. 35/87

Karnail Singh Vs. Bhakra Beas Management Board.

For the workman.—R. K. Singh.

For the management.—Shri Suresh Goel.

AWARD

Central Govt. vide gazettee notification No. L-42012/2/86-D.II(B) dated 22nd May, 1987 issued U/S 10(1)(d) of the I.D. Act, 1947 referred the following dispute to this Tribunal for adjudication :

"Whether the action of the management of Resident Engineer Kotta Power House, BBMB in terminating the services of Shri Karnail Singh, T. mate w.e.r. 3-3-1980 is legal and justified? If not, to what relief the concerned workman is entitled to and from what date?"

2. In the claim statement it has been alleged that he was appointed on 17-10-1978 as T. mate in the work charge capacity and employed till 3-4-1980. It is further alleged that two notional breaks were given which are meaning less for the purpose of Section 25-F of the I.D. Act 1947 and at the time of termination no notice was served upon him and thus his termination from service is illegal, void and bad. The management did not maintain any seniority list. No retrenchment compensation was given to him, which is pre-condition of retrenchment. It is further alleged that after his termination new hands were taken in service and these are Mukesh Kumar who was appointed on 24-4-1980. One Karnail Singh who was appointed on 3-4-1980 and both are still working. It is further alleged that more persons namely Indal Kumar was employed on 16-9-82 and Piar Chand was employed on 10-11-1981. It is further alleged that the management was violated Section 25-G of the I.D. Act as the juniors have been retained in service and prayed that he be reinstated in service with full back wages and continuity of service.

3. The management contested the claim of the petitioner. The stand was taken that the petitioner was employed on 13-10-1978 and was discharged on 20-12-1979. Thereafter he was given employment in the same month on fresh post of work charge T. mate and then discharged on 3-4-1980. It is pleaded that on both occasions the petitioner was offered fresh terms of employment. The stand taken by the management that the termination of the services of the petitioner was done on the completion of work against which he was appointed and thus the provisions of Section 25-F are not applicable. Other contentions were denied. It was denied that Mathura Dass etc. were juniors to the petitioner. It is further denied that the person with the name of Mukesh Kumar was ever appointed. Karnail Singh was appointed for the specified period of 30 days on temporary job. It is further pleaded that Indal Kumar was appointed for the period of six months for another work and his services were

suspended with on expiry of contractual period. Regarding Piar Chand it was pleaded that he was appointed on daily wages in April and continued till 20-7-1982. It is further pleaded that the petitioner has no claim and prayed for the dismissal of the reference.

4. Replication was also filed reasserting the claim made in the claim petition.

5. In support of his case petitioner filed his affidavit Ex. W1 and produced himself as WW1. The respdt. management produced Shri D. K. Maheshwari S.D.O. who tendered his affidavit Ex. M1 and produced himself as MW1 and relied on the documents Ex M2 to M6.

6. I have heard both the parties and gone through the evidence and record of the case. The rep. appearing on behalf of the workman has argued that the petitioner has continuously worked from 13-10-1978 till his termination on 3-4-1980 and has completed more than 240 days and at the time of termination the management has not complied with the provisions of Section 25-F of the I.D. Act and prayed for reinstatement with back wages. The rep. appearing on behalf of the management has controverted this argument stating that initially the petitioner was appointed on 13-10-1978 and his services were terminated on 20-12-1979 as the work against which he was employed had been completed and again he was appointed on 21-12-1979 for specific work and his services were terminated on 3-4-1980 and has argued that on each term the petitioner had not completed 240 days. I do not agree with the contention advanced by the rep. of the management. After the perusal of the appointment letter Ex. M5 dated 13-10-1978 firstly there is no indication that the petitioner was employed for any specific work. Ex. M4 is the notice of retrenchment vide which his services were terminated on 20-12-1979. The plea of the respdt. management that he was given appointment on 21-12-1979 as the fresh work has accrued. This contention is without any merit. As apparent from the appointment letters of the petitioner Ex. M2 and M5 the petitioner was put at work at same place with A.O. & SDO TIL (DG) BBMB Ganguwalnd and fresh work had not accrued overnight. Had the fresh work accrued earlier then there was no question of terminating his service on 20-12-1979 and again giving appointment on following day i.e. 21-12-1979. Rather the management should have allowed him to work continuously. The management knowingly has given one day break only in order not to allow him to complete 240 days continuously. This certainly on the face of it unfair labour practice. Thus break of one day by the management for ulterior motive has no significance.

The period from 13-10-1978 to 3-4-1980 is to be considered continuous period. Certainly the workman has worked for 240 days in the preceding period of 12 months. The management has certainly not complied with the provisions of Section 25-F of the I.D. Act 1947. Thus the case of this workman succeeds and he stands reinstated with continuity of service.

So far his claim for backwages is concerned, the petitioner in his statement of claim has not stated that he remained unemployed after the termination. Neither in the affidavit given in the evidence has alleged that he remained unemployed. Only in cross-examination he denied the suggestion that the petitioner was employed. It is not plausible at all that workman had remained unemployed for such number of months. After all he is married and have to maintain his family. Termination was effected on 3-4-1980 however industrial dispute was raised in the year 1987 after a considerable period of seven years. In these circumstances it would be deemed fit if the petitioner is allowed only 50% wages from the date of the reference i.e. June 1987. Reference is answered accordingly.

Chandigarh.

23-10-1992.

Announced subject to approval of the Ministry.

ARVIND KUMAR, Presiding Officer

नई दिल्ली, 23 नवम्बर, 1992

principle of equal pay for equal work and prayed for re-instatement with full back wages, with all benefits.

वा.आ. 3060 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) को धारा 17 के अनुसरण में, केन्द्रीय सरकार बी.बी.एम.बी. नंगल के प्रबन्धन के संयुक्त नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण चंडीगढ़ के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-11-92 को प्राप्त हुआ था।

[सं. एन-42012/25/85-डी-2 (बी) (पार्ट)]

के.वी.बी. उन्नी, डेस्क अधिकारी

New Delhi, the 23rd November, 1992

S.O. 3060.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Chandigarh as shown in the Annexure, in the industrial dispute between the employers in relation to the management of B.B.M.B., Nangal and their workmen, which was received by the Central Government on 20-11-92.

[No. L-42012/25/85-D.II(B)(Pt.)]

K. V. B. UNNY, Desk Officer

ANNEXURE

BEFORE SHRI ARVIND KUMAR, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, CHANDIGARH

Case No. I.D. 28/86

Pritam Singh Vs. BBMB

For the workman : Shri R. K. Singn.

For the management : Shri Suresh Goel.

AWARD

Central Government vide Gazette Notification No. L-42012/25/85-D.II(B) dated 10th February, 1986 issued U/S 10(1)(d) of the I.D. Act 1947 referred the following dispute to this Tribunal for adjudication :

“Whether the action of the management of Bhakra Beas Management Board, Nangal in terminating the services of Shri Pritam Singh son of Dalip Singh, Brick layer/mason in civil Sub-Division, Nangal with effect from 6-11-1984 is justified and in order, if not, to what relief is the workman concerned entitled to and from what date?”

2. In the claim statement it was pleaded that the petitioner was employed on daily wages as mason/bricklayer under Resident Engineer, Bhakra Power House Division BBMB Power Wing, Nangal Township w.e.f. 12-6-78 and continuously worked till 5-11-1984 when his services were terminated. It was pleaded that no charge sheet was served upon him. It is further pleaded that prior to this service, he had already rendered services in the very section under the Bhakra Dam administration. It is further pleaded that one Ram Kumar who had joined on 8-11-1983 and was junior to him has been promoted in work charge capacity w.e.f. 1-9-1984. It is further pleaded that he made requests to the authorities regarding him ignoring him from promotion/conversion to work charge cadre but no effect. It is further pleaded that the action of the management in terminating his services without notice violates the provisions of Section 25-F of the I.D. Act 1947. The management has also violated the

3. The respondent management contested the claim and pleaded that the petitioner was employed on daily wages w.e.f. 12-6-78. The management denied that the petitioner was in continuous service as he left the job of his own and the last he attended the job on 1-11-1984. It was denied that last he attended on 5-11-1984. It was further pleaded that Ram Kumar was employed w.e.f. 1-8-1980 and not on 8-11-1983 as alleged by the petitioner and thus his claim for seniority on Ram Kumar is not tenable. It is further pleaded that Ram Kumar had put in more number of days than the petitioner during the year 1982 to 1984. Therefore he was considered for appointment as mason on work charge post. The petitioner was asked to produce his date of birth for which he failed to do so. It is further pleaded that the claim of the petitioner is not covered U/S 25-F of the I.D. Act because his services were never terminated nor he was discharged from service. In fact he left the job of his own. In the end, the management had voluntarily offered that the management is still prepared to take him on job against some other pending work and prayed for the dismissal of the claim in the reference.

4. Renlication was also filed reasserting the claim made in the claim petition.

5. The petitioner in support of his case filed his affidavit Ex. W1 in evidence and produce himself as WW1 and relied on the documents Ex. W2 to W6 discharge certificates, Ex. W7 application dated 31-8-1984, Ex. W8 application dated 2-2-1985, Ex. W9 A.D. receipt, Ex. W10 letter dated 18th December, 1981, Ex. W11 application dated 24-12-1986, Ex. W12 postal receipt, Ex. W13 letter dated 29-12-1987, Ex. W14 postal receipt, W15 application dated 13-10-1987, Ex. W16 and W17 demand notice.

The management produced Shri R. D. Adlakha who filed his affidavit Ex. M1 in evidence and produce himself as MW1 and closed their case.

6. I have heard both the parties and gone through the evidence and record. The rep. appearing on behalf of the workman has argued that the petitioner has worked continuously from 12-6-78 to 6-11-1984 when his services were terminated without complying the provisions of Section 25-F of the I.D. Act and it has also been pointed out that he has been allowed to join duty only on 16-6-1988 and has prayed for the back wages from the date of termination till the joining of duty i.e. 16-6-1988. It has also been pointed out that the petitioner has already retired in 1991. The rep. appearing on behalf of the management has also argued that the petitioner of his own stopped coming w.e.f. 1-11-1984 and has also argued that the petitioner was not in continuous service. After perusing evidence I am not convinced with the argument advanced by the rep. of the management. Mr. R. D. Adlakha in his cross-examination has admitted that the petitioner had worked 241 days between March 1982 to February 1983 and 301 days between March 1983 to February 1984. But he has not stated that how many days he has worked in the preceding year to the date of termination i.e. 31-10-1984. The management has also not adduced any documentary evidence to the effect that he had not completed 240 days preceding to 31-10-1984. This definitely goes against the management as there is constant claim of the workman that he was in continuous service with the respondent management till the date of termination. Therefore the management has certainly violated the provisions of Section 25-F of the I.D. Act 1947.

It has also been pointed out by the rep. of the management that orally the petitioner was asked on many occasion to join duty but he did not. This argument is also meritless. Further the management has not shown any document on the record in which they had ever issued notice to the present petitioner asking him to join duty. Ex. W8 is the application moved by the workman dated 2-2-1985 he had moved the Asst. Resident Engineer and conveyed addressed to the A.L.C. complaining about his terminating. Had the workman voluntarily left his service then there was no occasion

AWARD

Central Government vide Gazette notification No. L-42012(9)/86-D. II(8) dated 5th April, 1987, issued U/S 10(1)(d) of the I.D. Act, 1947 referred the following dispute to this Tribunal for adjudication :

"Whether the action of the management of BBMB in superannuating Shri Kartar Singh alias Barfi Ram, son of Chandu Ram w.e.f. 30-6-1983 taking his year of birth as 1923 as against his claim of school leaving certificate produced by the worker date of birth as 18-6-1933 and refusing to reinstate and continue him in employment till 30-6-1993 when he would have attained the age of superannuation/60 years age, is justified and legal? If not, to what relief is Shri Kartar Singh alias Barfi Ram entitled to?"

2. In the claim statement it has been alleged that the joined service at Bhakra Dam Admn. now BBMB as cleaner w.e.f. 17-6-1957 by the name of Barfi Ram. He pleaded for change in his name and his date of birth which was wrongly entered in the record when as noticed by him when the management started the preparation of his papers for superannuation. He made representation but the management remained mum. It is further alleged that he produced school leaving certificate duly countersigned by the District Education Officer in terms of their instructions issued by the Chief Personnel Officer in letter dated 7-12-1978. It is further alleged that according to school leaving certificate his name has been recorded as Kartar Singh and shown to have pass class IV and date of birth has been recorded as 18-6-1933. It is further alleged that in the circular of seniority issued by Chief Personnel Officer vide letter dated 29-9-1983 the date of birth of Kartar Singh has been recorded as 18-6-1933. It is further alleged that the Superintending Engineer vide its letter dated 8-7-1983 directed the Executive Engineer Bhakra Mechanical Division to continue Kartar Singh till he attains the age of 60 years viz. recording his date of birth as 18-6-1933. It is further alleged that the management also changed the date of birth of number of persons including Kesar Singh, Jagdish Ram, Baldev Singh. It is further pleaded that the management did not care to record reasons for not believing school leaving certificate that the school leaving certificate is authentic circular for date of birth and name etc. It is further alleged that the action of the management in superannuating Kartar Singh on 30-6-1983 is unjustified, illegal and void and prayed for reinstatement with full back wages and seeking direction that he be superannuated in accordance with the date of birth as 18-6-1933.

3. The claim of the petitioner contested by the respdt. management and the stand was taken that the workman by the name of Barfi Ram joined service on 17-6-1957 and later on he was converted to regular cadre of cleaner w.e.f. 1-11-1981. Date of birth was recorded as 1923 in the service book. It is also pleaded that work charge regular cadre employees are governed by Certified Standing Orders and Punjab Civil Service Rules as adopted by the BBMB. Further the management had taken the stand the Superintending Engineer permitted the change of name from Barfi Ram to Kartar Singh on 15-3-1982 and so far the request in the change in date of birth he did not pass any order because the matter was beyond his jurisdiction. The management further pleaded that the workman himself has filled form 'F' in which he declared his date of birth as 1923. It is further pleaded that the seniority list released by the Chief Personnel Officer on 29-8-1983 was provisional for inviting objections and the date of birth of the Petitioner was wrongly shown as 18-6-1933. It is further pleaded that school leaving certificate is not authentic document and not supported by any other paper. The further stand was taken that letter issued by the Superintending Engineer on 8-7-83 is infructuous since workman had already been relieved on 30-6-1983. The management took up further stand that petitioner had become regular employees of the BBMB and his services were covered by the Punjab Civil Services Rules and under Rule 25 of Punjab Civil Services Rules the date of birth once declared by a person can not be altered except in case of clerical error. Other contentions raised by the petitioner were also denied.

for him to move any such like application to the Assistant Resident Engineer and copy addressed to the A.L.C. Ex. W10 is also letter by the Resident Engineer addressed to the petitioner dated 18-12-1986 asking the petitioner to attend the office in connection with the Court case. No such offer has been made in his letter to join the duty. The respondent management has also not placed any communication on the record showing that the management was prepared to take him back in the service except for the first time when filing the written statement on 11-4-1987, and thereafter, on 29th December, 1987 a specific offer was made to the petitioner to join duty vide Ex. W13 and ultimately the petitioner was allowed to join duty only on 16-6-1988.

In view of the discussion made in the earlier paras the respondent management has certainly violated the provisions of Section 25-F of the I.D. Act 1947. The petitioner was already allowed to join duty w.e.f. 16-6-1986. The question remains about his back wages. No doubt the petitioner has stated that he remained unemployed through out. But this seems not plausible. Further the management had offered to join duty w.e.f. 29-12-1987 but he had only joined the duty on 16-6-1988. Thus I allowed the back wages to the extent of 50 per cent from the date of termination i.e. 1st November, 1984 till the date when the respondent made specific offer to join duty i.e. 29-12-1987. In a way reference is answered accordingly.

Chandigarh.

Announced subject to approval
by the Ministry.

ARVIND KUMAR, Presiding Officer

नई दिल्ली, 23 नवम्बर, 1992

का.प्र. 3061 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी.बी.एम.बी. के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कार्यकारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, खंडीगढ़ के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-11-92 को प्राप्त हुआ था।

[सं. एल-42012/9/86-डी-2 (बी) (पार्ट)]

के.बी.बी. उष्णी, डैस्क अधिकारी

New Delhi, the 23rd November, 1992

S.O. 3061.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Chandigarh as shown in the Annexure, in the industrial dispute between the employers in relation to the management of B.B.M.B. and their workmen, which was received by the Central Government on 20-11-92.

[No. L-42012/9/86-D.II(B)(Pt.)]

K.V.B. UNNY, Desk Officer

ANNEXURE

BEFORE SHRI ARVIND KUMAR, PRESIDING
OFFICER, CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, CHANDIGARH

Case No. I.D. 34/87

Kartar Singh alias Barfi Ram

Versus

BBMB

For the workman—Shri R. K. Singh.

For the management—Shri Suruchi Goel.

4. Replication also filed reasserting the claim made in the claim petition.

5. The petitioner produced one Darshan Singh WW1 and got proved Ex. W1 termination order on superannuation of Barfi Ram dated 2-6-83, Ex. W2 letter of S.E. dated 8-7-83, W3 letter dated 29-9-83 and Ex. W4 the seniority list. The petitioner filed his affidavit Ex. W5 in evidence and produced himself as WW2 and produced documents Ex. W6 to W19.

Respdt. management produced Shri Harbhajan Singh who tendered his affidavit Ex. M1 in evidence and proved documents office order Ex. M2 and the declaration of the workman Ex. M3 and closed their case and Ex. M/1 and Ex. M/2.

6. I have heard both the parties and gone through the evidence and record of the case. Representative appearing on behalf of the workman has argued that the name of Barfi Ram was allowed to be changed by the management to Kartar Singh. However the date of birth has not been rectified although there is specific order of the Superintending Engineer to this effect and has referred to the order Ex. W2 and has also referred Ex. W4 seniority list in which changed date of birth has been reflected as 18-6-1933. However I do not accept the contention advanced above. The seniority list Ex. W4 has been perused. Alongwith it, there is forwarding letter which is Ex. W3. This seniority list is provisional for seeking objections and not the final seniority list and further Harbhajan Singh Turna appearing on behalf of the management has stated in his affidavit Ex. M1 that the said date of birth was erroneously shown as 18-6-1933. However the mistake was lately noticed and got rectified. No cross-examination has been done on this issue. The order of the S.E. referred by the rep. of the workman Ex. W2 is of no consequences for the reasons that this was passed on 8-7-1983 whereas the petitioner was superannuated on 30-6-1983 and further there was no occasion for the Superintending Engineer who is not the appointing authority of the petitioner to pass such like order when the request of the petitioner with regard to change of his date of birth was already declined vide Ex. W13 by the management where it has been conveyed to the General Secretary Nangal Bhakra Mazdoor Sangh that it is regretted that change sought for in the date of birth can not be granted.

The petitioner has not placed on the record his school leaving certificate on which he has placing reliance. Rep. appearing on behalf of the management has argued that petitioner is a regular employee of the BMB and his services are governed by Punjab Civil Service Rules and has referred the extracts in the Rule 7:3 of P.F.R. Vol. I, Part 1. This extract has also been proved by the workman and has placed by the workman as Ex. W2. After perusing this extract it is apparent that rules provide that declaration in age regarding date of birth made at the time of the entry in the government service shall, be deemed to be conclusive unless he applies for correction of within two years of joining of his service. However in the present case the workman remained mum right from the date of joining i.e. 1957 and did not take any action for the correction of his date of birth and thus his action at the far end of the service for extension of his date of birth is in controverting to the rules mentioned above. The said rules are based on sound public policy and it make for certain and orderly state of thing which are of essence of good administration which is in the long run are in the best interest of all the employees as well as management.

Ex. M2 is the declaration form which was duly filed by the petitioner and signed by him at the time of entry into government service and has given declaration with regard to the date of birth as 1923. Subsequent also the petitioner had filed form 'F' Ex. M1 and at that very stage he has given his date of birth as 1923. The petitioner claims himself to be 4th pass. In that situation he can not be expected that he would give his wrong date of birth firstly at the time of entry into government service and subsequently when form 'F' was filled by the petitioner applying for exgratia. Further it has been held in AJR 1965 S.C. 282 Brij Mohan Vs. Priva Virat Munshi that entry in the school leaving certificate are of little value.

2905 GI/92—6.

In view of the discussion made in the earlier paras it is held that the petitioner has been rightly superannuated taking his date of birth as 1923 which he had himself given at the time of entry into government service. The petitioner has failed to make out a case with regard to the change in his date of birth. Reference is answered accordingly.

Chandigarh.

Announced subject to the approval of Ministry.
28-10-1992.

ARVIND KUMAR, Presiding Officer

नई दिल्ली, 23 नवम्बर, 1992

का.आ. 3062 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मन्दूल पोटेटो रिसर्च स्टेशन, जालंधर के प्रबन्धन के संबद्ध नियोक्तों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चंडीगढ़ के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-11-92 को प्राप्त हुआ था।

[सं. एल-42012/84/91-डी-2 (बी) (पार्ट)]

के.वी.बी. उप्पणी, ईस्क अधिकारी

New Delhi, the 23rd November, 1992

S.O. 3062.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Chandigarh as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Central Potato Research Station, Jalandhar and their workmen, which was received by the Central Government on 20-11-92.

[No. L-42012/84/91-D.II(B)(Pt.)]

K. V. B. UNNY, Desk Officer

ANNEXURE

BEFORE SHRI ARVIND KUMAR, PRESIDING OFFICER,
CENTRAL GOVT., INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT, CHANDIGARH.

I.D. No 13/92

Karnail Singh Vs. Central Potato Research Institute.

For the workman—Shri Vinod Choda, Advocate.

For the management—None.

AWARD

Central Govt. vide gazette notification No. L-42012/84/91/D-2(B) dated 4th March 1992 issued U/s. 10(1)(d) of the I.D. Act, 1947 referred the following dispute to this Tribunal for adjudication:

“Whether the action of Central Potato Research Station Jalandhar in terminating the services of Shri Karnail Singh w.e.f. 9-11-1990 is justified? If not, what relief the workman concerned is entitled to?”

2. Karnail Singh workman has made statement that his claim has been satisfied by the management and he does not want to pursue the same and no dispute award be returned to the Ministry. In view of the statement made by the petitioner himself. No Dispute Award is returned to the Ministry Chandigarh.

19-10-1992.

ARVIND KUMAR, Presiding Officer

नई दिल्ली, 23 नवम्बर, 1992

का.आ. 3063.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेन्ट्रल शीप ब्रीडिंग फार्म, हिसार के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चंडीगढ़ के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-11-92 को प्राप्त हुआ था।

[सं. एल-42012/40/91-आई.आर. (डी.यू.) (पार्ट)]

के.वी.बी. उण्णी, डेस्क अधिकारी

New Delhi, the 23rd November, 1992

S.O. 3063.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Chandigarh as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Central Sheep Breeding Farm, Hissar and their workmen, which was received by the Central Government on 20-11-92.

[No. L-42012/40/91-IR(DU)(Pt.)]

K. V. B. UNNY, Desk Officer

ANNEXURE

BEFORE SHRI ARVIND KUMAR, PRESIDING OFFICER, CENTRAL GOVT., INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHANDIGARH.

Case No. I.D. 158/91

Roshan Lal Vs. Central Sheep Breeding Farm.

For the workman—None.

For the management—Shri Arun Walia.

AWARD

Central Govt. vide gazette notification No. L-42012/40/91 IR(DU) dated 30th October 1991 issued U/S 10(1)(d) of the I.D. Act, 1947 referred the following dispute to this Tribunal for adjudication :

"Whether the action of the management of Central Sheep Breeding Farm, Hissar in terminating the services of Shri Roshan Lal, Typist w.e.f. 31-5-90 is justified? If not, what relief the worker concerned is entitled to?"

2. The petitioner right from the beginning has not put in appearance although various registered notices were issued to him. The present case can not be adjudicated upon without any pleading and evidence thereupon, in absence of the petitioner. Therefore, the present reference is dismissed in default and returned to the Ministry.

Chandigarh.

8-9-92.

ARVIND KUMAR, Presiding Officer

नई दिल्ली, 23 नवम्बर, 1992

का.आ. 3064.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय

सरकार बी.बी.एम.बी. के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चंडीगढ़ के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-11-92 को प्राप्त हुआ था।

[सं. एल-42012/11/91-आई.आर. (डी.यू.) (पार्ट)]

के.वी.बी. उण्णी, डेस्क अधिकारी

New Delhi, the 23rd November, 1992

S.O. 3064.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Chandigarh as shown in the Annexure, in the industrial dispute between the employers in relation to the management of B.B.M.B. and their workmen which was received by the Central Government on 20-11-92.

[No. L-42012/11/91-IR(DU)(Pt.)]

K. V. B. UNNY, Desk Officer

ANNEXURE

BEFORE SHRI ARVIND KUMAR, PRESIDING OFFICER, CENTRAL GOVT., INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHANDIGARH.

Case No. I.D. 123/91

Ayodhya Parshad Vs. BBMB

For the workman—Shri Sat Pal Shah.

For the management—Shri Suresh Goel.

AWARD

Central Govt., vide gazette notification No. L-42012/11/91-IRDV dated 30th September, 1991 issued U/S 10(1)(d) of the I.D. Act 1947 referred the following dispute to this Tribunal for adjudication:

"Whether the action of the management of BBMB in denying promotion to Shri Ayodhya Prashad to the post of crushing plant operator w.e.f. 1-1-1987 is justified? If not, to what relief the workman concerned is entitled?"

2 Mr. S. P. Shah rep. of the workman has made statement that the claim in reference has been satisfied by the management and he does not want to pursue the same. No Dis-Award be returned to the Ministry. In view of the statement since claim in reference has been satisfied by the management No Dispute Award is returned to the Ministry.

Chandigarh.

22-9-92.

ARVIND KUMAR, Presiding Officer

नई दिल्ली, 23 नवम्बर, 1992

का.आ. 3065.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार केन्द्रीय विधालय संगठन के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण

अधीनस्थ के पत्र को प्रकाशित करती है, जो केंद्रीय सरकार को 20-11-92 को प्राप्त हुआ था।

[सं. एल-42012/54/87-डी-2 (बी)]

के.वी.बी. उन्नी, डेस्क अधिकारी

New Delhi, the 23rd November, 1992

S.O. 3065.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Chandigarh as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Kendriya Vidyalaya Sangathan and their workmen, which was received by the Central Government on 20-11-1992.

[No. L-42012/54/87-D.II(B)]

K. V. B. UNNY, Desk Officer

ANNEXURE

BEFORE SHRI ARVIND KUMAR, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, CHANDIGARH

I.D. 66/88

Ashok Kumar

Vs.

Kendriya Vidyalaya Sangathan.

For the workman—Workman in person.

For the management—Shri P. C. Puri.

AWARD

Central Government vide Gazette Notification No. L-42012/34/87-D.II(B) dated 25th August 1989 issued U/S 10(1)(d) of the I. D. Act 1947 referred the following dispute to this Tribunal for adjudication :

"Whether the action of the Kendriya Vidyalaya Sangathan represented through Principal and Chairman H.V.C. Mira Sahib, Jammu in terminating the services of Shri Ashok Kumar Bhagar, UDC w.e.f. 9-1-87 is justified? If not, what relief the workman entitled to and from what date?"

2. In the statement of claim it has been alleged that the workman was appointed as UDC on 27-12-1985 with the Respd. at Jammu after selection through employment exchange against permanent vacancy reserved for scheduled caste. It was further alleged that his services were terminated on 9-1-1987 without any notice or pay in lieu of and compensation required U/S 25-F of the I. D. Act 1947 although he had completed 240 days, w.e.f. 27-12-1985 to 9-1-1987. It is further claimed that his services were not on adhoc basis but against permanent vacancy as temporary UDC. It was further alleged that his appointment was not for any stipulated period as no such stipulation with regard to the period was given in the appointment letter. It is further alleged that after his termination the respd. management has appointed non reserved candidates against reserved vacancy. It was further alleged that the respd. management also violated circular dated 4-2-1987 which provides regularization of the services of adhoc non-teaching employees of K.V.S. who had completed 240 days service. It was further alleged that the petitioner is workman within the meaning of workman as defined in the Industrial Disputes Act. It is further alleged that cause of action has arisen at Jammu. In the claim statement one case of Miss Saroj Thapa has been referred to which reinstatement with back wages was allowed by the High Court of Shimla. It is further alleged that his termination is violative of Section 25-F compliance of which is mandatory and prayed for reinstatement with back wages.

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3. Respd. management has contested the case and filed written statement. Preliminary objection has been taken that there is no question of violation of Section 25-F as K.V.S. is an educational institution and does not fall within the definition of 'Industry' as contained in Section 2-J of the I. D. Act and the petitioner is not the workman. Further objection was taken that in the appointment letter the jurisdiction has been mentioned at Delhi and this Court has no jurisdiction to entertain this case.

On merits the plea was taken that appointment of the petitioner was on adhoc basis and his services could always be terminated by the management without any notice and also that any dispute with regard to the terms and conditions of the appointment could be entertained only in the Courts at Delhi. On merits it was also stressed that the respd. management is the educational institution and does not fall within the definition of 'Industry'. It was further stated that the services of the petitioner was terminated strictly in accordance with the terms of appointment letter as his work was most unsatisfactory and below average. It was however admitted that he joined duty on 27-12-1985 and was allowed to be there till January 9, 1987. It is further pleaded that Section 25-F has no application in the present case and prayed for the dismissal of the reference.

4. Replication was also filed. In the replication it has been stressed that the objection raised in the written statement are based on surmises. The respd. is an industrial organisation. It was further pleaded that Section 25-F and 25-H are applicable in the present case and has also denied the various plea in the written statement and relied on the judgments of the Hon'ble Supreme Court as well as of the High Court.

5. The petitioner in support of his case examined himself as WW-1 and filed his affidavit Ex. W-1 in evidence. In cross-examination he has admitted that he received offer of appointment and accepted the terms and conditions therein. He denied that he prepared the wrong bills. He admitted letter issued by Deputy Commissioner (P) dated 4-2-1987 which is Ex. M1. He also admitted Ex. M2 the termination letter dated 9-1-1987.

Respd. management produced Mr. P. C. Puri Principal who produced himself as MW-1 and filed his affidavit M-3. He filed documents, Ex. M-4 termination letter, Ex. M-5 offer of appointment, Ex. M-6 relieving order and Ex. M-7 joining report of the petitioners. In cross-examination he admitted that no notice was given prior to the termination. He has also admitted that no charge sheet was issued prior to termination as the same was not required. He has admitted that circular Ex. M 1 is not application in the present case as the same is applicable only to the regular employees.

6. I have heard both the parties and gone through the record. The rep. of the management has laid stresses that Kendriya Vidyalaya is an educational institution and this does not fall within the definition of 'industry' and as a result the petitioner is not workman and the provisions of the I. D. Act are not attractive. The contention is meritless. The matter was already considered in Bangalore Water Supply and Sewerage Board Vs. A. Rajappa 1978 L.I.C. 467 wherein it has been held that in the educational institutions there are number of other activities than teaching which may be severable from the teaching activities and these operations viewed separately or collectively, by themselves, may be treated as an 'industry'. Similar view has been taken in Sri Jagannath Sanskrit Vishwavidyalaya Vs. Sridhar Behera and others reported in 1989(2) LLN 242 wherein it has been held that the educational institutions is an industry in so far as it relates to the skilled or unskilled workers but the teachers can not be treated as workman. Thus the position boils down the situation that educational institutions may assume double character, the determination of which will depend on the facts and evidence of each case. Admittedly the petitioner had no concern with the teaching aspect of the said institution and falls in the category of other than teaching status and thus is the workman for the purpose of industrial disputes Act. Another objection has taken by the respd. management that this Court has got no jurisdiction to entertain this reference and has relied on Ex. M-5 the appointment letter in which it contain

that for any dispute Courts at Delhi alone had the jurisdiction. This contention is again meritless. The post was circulated at Employment Exchange Jammu in which the petitioner had applied. Appointment letter was duly issued at Jammu. The petitioner had served at Jammu and the termination was again given effect at Jammu. Thus there is no question of having jurisdiction for try of the case at Delhi and the said clause in the appointment letter is against the public policy and is neither here nor there being appointment is not on contractual basis.

Rep. of the management has taken another plea that the work and conduct of the petitioner was not satisfactory and that is why his services have been terminated and has referred Ex. M-4 the termination order dated 23-12-1986 in which the petitioner has shown to have apologised. Contention is again meritless. Right from the appointment of the petitioner on 27-12-1985 till the date of his termination management has not shown to have issued any show cause notice to the petitioner for his unsatisfactory work. Document Ex. M-4 referred by the management has been perused but the same does not connect with his work and conduct. The petitioner had apologised as he had gone to the office of Asstt. Commissioner without permission of the principal. This action has no nexus with his work.

The petitioner had worked continuously from 27-12-85 till his termination as on 9-1-1987 and has completed 240 days. Rep. of the management has pointed out that there was break on 31-12-1985 as he was absent without any information and also on 9-9-1986 and he was treated on leave without pay. This can not be taken as break. Absence on 31-12-1985 is beyond the preceding period of 12 months from the date of termination and this has no effect and on 9-9-1986 when he was treated on leave without pay is only a notional break and further the management had not issued any notice to the petitioner intimating his break in service and thus the same has no effect so far the continuity of service of the petitioner is concerned.

Mr. P. C. Puri MW-1 when appeared as witness has admitted that no notice was given to the petitioner prior to the termination of his services. The management has certainly violated the provisions of Section 25-F of the I. A. Act, 1947. Therefore, the termination of the petitioner is bad in the eyes of law. Therefore, it is ordered that the petitioner be reinstated with continuity of service.

Ex. M-1 dated 4-2-1987 is the circular issued by the Deputy Commissioner directing the management to regularise the services who have recruited against regular vacancy provided they have completed 240 days. The plea of the respnt. management qua this circular is that it was passed after the termination of petitioner. Since the petitioner has been reinstated with continuity of service, the management is directed to take into consideration of the said circular for the purpose of regularisation of the services of the petitioner if other conditions in the said circular are satisfied by the petitioner.

With regard to the back wages, the petitioner has not stated in his statement of claim and in his evidence that he remained unemployed during this period. In view of the circumstances 50% back wages is allowed. Reference is answered accordingly.

Chandigarh.

ARVIND KUMAR, Presiding Officer

नई दिल्ली, 24 नवम्बर, 1992

का.ग्रा. 3066:—केन्द्रीय सरकार के उक्त अधिनियम में ऐसा करना घोषित था औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खंड (ह) के उपखंड (vi) के उपखंडों के अनुसरण में भारत सरकार के श्रम मंत्रालय की अधिसूचना संख्या का.ग्रा. 1647 दिनांक 26 मई, 1992 द्वारा

पाइराइट्स खनन उद्योग को उक्त अधिनियम के प्रयोजनों के लिए 26 मई, 1992 से छः मास की कालावधि के लिए लोक उपयोगी सेवा घोषित किया था,

और केन्द्रीय सरकार की राय है कि लोकहित में उक्त कालावधि को छः मास की और कालावधि के लिए बढ़ाया जाना अपेक्षित है,

अतः अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खंड (ह) के उपखंड (vi) के परन्तुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार उक्त उद्योग को उक्त अधिनियम के प्रयोजनों के लिए 26 नवम्बर, 1992 से छः मास की और कालावधि के लिए लोक उपयोगी सेवा घोषित करती है।

[संख्या एम-11017/1/80-आई.आर. (नीति)]

एस.एस. प्रशर, अवर सचिव

New Delhi, the 24th November, 1992

S.O. 3066.—Whereas the Central Government having been satisfied that the public interest so required had, in pursuance of the provision of sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947), declared by the notification of the Government of India in the Ministry of Labour S.O. No. 1647 dated the 26th May, 1992 the Pyrites Mining Industry to be a public utility service for the purposes of the said Act, for a period of six months, from the 26th May, 1992;

And whereas, the Central Government is of opinion that public interest requires the extension of the said period by a further period of six months;

Now, therefore, in exercise of the powers conferred by the proviso to sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby declares the said industry to be a public utility service for the purpose of the said Act, for a further period of six months from the 26th November, 1992.

[No. S-11017/1/80-I.R. (Policy)]

S. S. PRASHER, Under Secy.

नई दिल्ली, 26 नवम्बर, 1992

का.ग्रा. 3067:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, मै. वी.सी.सी.एल. की फुलारदंड कोलियरी के प्रबन्धन के संबंध निर्योजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, (सं. 2), धनवाद के पंचपट को प्रस्तावित करती है, जो केन्द्रिय सरकार को 6-11-92 को प्राप्त हुआ था।

[संख्या एल-24012/85/87-डी-4(बी)/आईआर (कोल-1)]

एच. सी. गौग, ईस्क अधिकारी

New Delhi, the 25th November, 1992

S.O. 3067.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, (No. 2), Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the Mgt. of Phularitand Colliery of M/s. BCCL and their workmen, which was received by the Central Government on 6-11-92.

[No. 24012/85/87-DIV(B)/IR(C-I)]

H. C. GOWR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD
PRESENT

Shri B. Ram, Presiding Officer.

In the matter of an industrial dispute under Section 10(1)(d) of the I. D. Act, 1947.

Reference No. 48 of 1988

PARTIES :

Employers in relation to the management of Phularitand Colliery of M/s. Bharat Coking Coal Ltd. and their workmen.

APPEARANCES :

On behalf of the workmen—Shri D. Mukherjee, Secretary, Bihar Colliery Kamgar Union

On behalf of the employers:—None.

On behalf of the employers—None.

STATE : Bihar INDUSTRY : Coal

Dated, Dhanbad, the 30th October, 1992

AWARD

The Govt. of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I. D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-24012(85)/87-D.IV(B), dated, the 23rd December, 1987.

SCHEDULE

“Whether the demand of the union that Smt. Surji Kamin and 53 others as per Annexure-A should be regularised and be paid wages and allowances as permanent workmen by the Management of Phularitand Colliery of M/s. Bharat Coking Coal Ltd. is justified? If so, to what relief these workman are entitled and from when?”

2. The present reference was made over to this Tribunal in the month of December, 1987 for adjudication and since then the matter was pending for filling W.S. on behalf of the parties, From the record, I find that no W.S. could be filed by either party in spite of so many adjournment. Lastly on 13-10-92 Shri D. Mukherjee learned representative for the workmen appeared and prayed for ‘No dispute’ Award although he did not submit anything in writing. This is suggestive of the fact that the

workmen namely Smt. Surji Kamin and 53 others as per Annexure-A now stand no grievance for their regularisation plus wages and allowance as permanent employees by the management of Phularitand Colliery of M/s. BCCL. Since the workmen have no grievance the award of ‘No dispute’ is the only way and accordingly a ‘No dispute’ Award is passed.

B. RAM, Presiding Officer

ANNEXURE “A”

LIST OF WAGON LOADERS.

1. Surji Kamin.
2. Sripatiya Kamin.
3. Manju Kamin.
4. Khemia Kamin.
5. Kobani Kamin.
6. Kapurwa Kamin.
7. Faguni Kamin.
8. Deorania Kamin.
9. Kusumi Kamin.
10. Sudamia Kamin.
11. Suma Kamin.
12. Sudhani Kamin.
13. Sukuwa Kamin.
14. Deokalia Kamin.
15. Rukmunia No.2
16. Tetari 1 No.
17. Mahngi Kamin.
18. Sanichari Kamin.
19. Rajkuri Wamin.
20. Shanti 2 No.
21. Shanti 2 No.
22. Puran Manjhi.
23. Parbatia Kamin.
24. Sohangi Kamin.
25. Ati Kamin.
26. Kalwa Kamin.
27. Subhagia Kamin.
28. Indri Kamin.
29. Radhia Kamin.
30. Fuleshwari Kamin.
31. Chori Bhuiyan.
32. Jago Beldar.
33. Bigua Kamin
34. Sarsawatia Kamin.
35. Purani Kamin.
36. Sona Das.
37. Bhuletan Beldar.
38. Tetari Kamin No. 2
39. Mohwa Kamin.

40. Bedamia Kamin.

47. Sibia Kamin.

41. Alakhi Kamin.

48. Shankari Kamin.

42. Mahadeo Bhuiyan.

49. Chari Kamin.

43. Moyla Bhuiyan.

50. Patia Kamin.

44. Koyali Kamin.

51. Rajmatia Kamin

45. Sonwa Kamin.

52. Geeta Kamin.

46. Surja Beldar.

53. Seocharan Munda.

54. Lakhi Munda.